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LOK SABHA DEBATES

[Part I—Questions and Answers]

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CONTENTS

Volume III—From 20th April to 7th May, 1955 — *Columns*

Wednesday, 20th April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2399, 2401, 2403, 2405, 2409, 2411, 2414 to 2419, 2421 to 2423, 2426, 2427, 2429 to 2436, 2439, 2440, 2442, 2443, 2400, 2404, 2406 and 2413 . . . . . 2461—96

Written Answers to Questions—

Starred Questions Nos. 2407, 2408, 2412, 2420, 2424, 2425, 2428, 2437 and 2441 2497—2500

Unstarred Questions Nos. 909 to 911, 913 to 945 and 947 . . . . . 2500—2520

Friday, 22nd April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2477 to 2483, 2486 to 2488, 2490, 2491, 2493 to 2495, 2498, 2501, 2502, 2504 to 2506, 2508 to 2510, 2512, 2516, 2517 . . 2521—53

Short Notice Question No. 9 . . . . . 2553—59

Written Answers to Questions—

Starred Questions Nos. 2444-2476, 2484, 2485, 2489, 2492, 2499, 2500, 2503, 2507, 2511, 2513-2515, 2518, 2519 . . . . . 2559—80

Unstarred Questions Nos. 948-983, 985-991, 993 . . . . . 2580—2604

Monday, 25th April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2521, 2524 to 2526, 2540, 2542, 2544 to 2547, 2550, 2552, 2555 to 2557, 2559, 2562 to 2564, 2541 and 2538 . . . . . 2605—26

Written Answers to Questions—

Starred Questions Nos. 2520, 2522, 2523, 2527 to 2537, 2539, 2543, 2548, 2549, 2551, 2553, 2554, 2560 and 2561. . . . . 2626—36

Unstarred Questions Nos. 994 to 1019 and 1021 to 1043 . . . . . 2637—60

Tuesday, 26th April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2565 to 2568, 2570, 2573, 2574, 2577, 2579, 2580, 2582, 2584, 2585, 2587, 2588, 2590 to 2597, 2599, 2602, 2603, 2578 and 2569 . 2661—94

Written Answers to Questions—

Starred Questions Nos. 2571, 2572, 2575, 2576, 2581, 2583, 2589, 2598, 2600, 2601, 2604 . . . . . 2694—98

Unstarred Questions Nos. 1044 to 1057 and 1059 to 1070 . . . 2698—2712

Wednesday, 27th April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2605, 2607, 2608, 2610 to 2618, 2620 to 2622, 2624, 2625, 2630, 2632 to 2634, 2638, 2640, 2642, 2645 to 2649, 2651, 2656, 2656-A, 2606, 2628 and 2653 . . . . . 2713—51

Written Answers to Questions—

Starred Questions Nos. 2609, 2619, 2623, 2627, 2629, 2631, 2636, 2637, 2639, 2641, 2643, 2644, 2650, 2652, 2654, 2655 and 2657 . . . . . 2751—57

Unstarred Questions Nos. 1071 to 1104, 1104-A and 1104-B . . 2757—76

Thursday, 28th April, 1955

Oral Answers to Questions—

Starred Questions Nos. 2658 to 2662, 2664, 2667, 2670 to 2672, 2674 to 2677, 2679, 2682 to 2684, 2686, 2687, 2689, 2690, 2690-A, 2691, 2692, 2693-A, 2694, 2696, 2698, 2663, 2666, 2685 and 2669 . . . . . 2777—2815

	Columns
Written Answers to Questions—	
Starred Questions Nos. 2665, 2668, 2673, 2678, 2680, 2681, 2688, 2693, 2695 2607 and 2699	2815—19
Unstarred Questions Nos. 1105 to 1118, 1120 to 1127, 1129 to 1153 and 1153-A.	2819—46
Friday, 29th April, 1955	
Oral Answers to Questions—	
Starred Questions Nos. 2700, 2701, 2703, 2706, 2712, 2713, 2715, 2718, 2722 to 2725, 2709 and 2710	2847—63
Correction of Answer to Starred Question	2863
Starred Question No. 2711	2863—64
Written Answers to Questions-	
Starred Questions Nos. 2702, 2704, 2705, 2707, 2708, 2714, 2720, 2721 and 2726	2864—68
Unstarred Questions Nos. 1154 to 1160, 1162 to 1187	2868—84
Monday, 2nd May, 1955	
Oral Answers to Questions—	
Short Notice Question No. 10	2885—88
Tuesday, 3rd May, 1955	
Oral Answers to Questions—	
Starred Questions Nos. 2728, 2729, 2731 and 2732	2889—94
Written Answers to Questions-	
Starred Questions Nos. 2727 and 2730	2894—96
Unstarred Questions Nos. 1188 to 1194	2896—2900
Wednesday, 4th May, 1955	
Oral Answers to Questions—	
Short Notice Questions Nos. 11 and 12	2901—05
Written Answers to Questions—	
Short Notice Question No. 13	2905—06
Thursday, 5th May, 1955	
Member Sworn	2907
Oral Answers to Questions—	
Short Notice Questions Nos. 14 and 15	2907—14
Written Answers to Questions—	
Short Notice Question No. 16	2914
Saturday, 7th May, 1955	
Oral Answers to Questions—	
Short Notice Questions Nos. 17 and 18	2915—18

LOK SABHA

Friday, 29th April, 1955.

THE *Lok Sabha met at Eleven of the Clock.*

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

INSTITUTE OF PUBLIC ADMINISTRATION

*2700. **Shri Radha Raman:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the plan for the establishment of a school of Public Administration has been finalised by the Institute of Public Administration;

(b) if so, what are the precise functions of the school and the work that has been undertaken so far; and

(c) whether the Institute of Public Administration has drawn up any programme of its work?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The Institute of Public Administration is an autonomous organisation which has been registered under the Societies Registration Act.

The desired information is contained in the first annual report of the Institute and in the first issue of the Institute's journal, copies of which are available in the Library of Parliament.

Shri Radha Raman: May I know if there is any responsibility which the Government carries with it in regard to the running of this Institute and any definite sum is going to be granted to it?

Shri Datar: So far as the earlier part of the question is concerned, Government have no responsibility at all. In regard to the latter part, Government are making grants and for the year 1954, Rs. 1,75,000 was given to this Institute.

Shri Radha Raman: May I know when the school, which is contemplated to be established under this Public Administration Institute will start functioning? Does the Government know about it?

Shri Datar: Government have no information at present as to when it is going to start functioning.

श्री भक्त दर्शन : क्या मैं जान सकता हूं कि क्या इस विद्यालय में इंडियन एडमिनिस्ट्रेटिव सर्विस या प्रांविशियल सर्विस के लोगों को ट्रेनिंग देने की व्यवस्था की जा रही है या केवल सार्वजनिक कार्यकर्ताओं को ?

Shri Datar: Now, this Institute, if I have understood their proposals correctly, is meant to give training so far as higher aspects of public administration are concerned. It will be open to all higher officers.

Shri V. Muniswamy: May I know whether the Planning Commission has made any recommendations in this regard, and if so, how far they have been implemented?

Shri Datar: So far as the Planning Commission is concerned, I am afraid they have not made any recommendations in this respect except to the extent that such an Institute should be there.

औद्योगिक उपकर (सेस)

*२७०९. श्री विभूति मिश्र : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या प्रविधिक शिक्षा के लिये सरकार का विचार कोई उपकर लगाने का है, और

(ख) यदि हां, तो यह किस तारीख से लगाया जायेगा और उस की दर क्या होगी ?

शिक्षा मंत्री के समासचिव (डा० एम० एम० दास): (क) ऐसी कोई तजवीज विचाराधीन नहीं है।

(ख) प्रश्न नहीं उठता।

श्री विभूति मिश्र : हिन्दुस्तान में टैक्निशीयंस की संख्या बढ़े और उन को शिक्षा दी जाए, इस के बारे में सरकार क्या सोच रही है ?

Dr. M. M. Das: Government have got so many schemes; some of them have been implemented and others are being implemented now for increasing the number of technicians in the country.

श्री विभूति मिश्र : अब तक कितने टैक्निशीयंस को सरकार शिक्षा दे पाई है ?

Dr. M. M. Das: That is a different question and I would like to have notice of it.

I.A.F. Officers

*2703. **Shri Ibrahim:** Will the Minister of **Defence** be pleased to state:

(a) the number of I.A.F. Officers who have been sent to the United Kingdom for training in advanced air traffic control; and

(b) the number that have returned after training?

The Deputy Minister of Defence (Sardar Majithia): (a) Two I.A.F. officers have so far been trained on the Air Traffic Control Officers' Course.

(b) Two.

Shri Ibrahim: May I know the expenditure incurred over this training?

Sardar Majithia: About £450 as tuition fees *plus* the usual allowances which are given to officers.

Shri Ibrahim: May I know whether any fresh batch is going to be sent abroad for this training?

Sardar Majithia: One officer possibly will go this year.

Shri Joachim Alva: Have these officers been permitted to be trained in every section of air traffic or is it for the open list only and not the secret list?

Sardar Majithia: There is no secret list. They go for air traffic control, which means control of aircraft flying in adverse weather.

Chartered Accountants' Regulations

*2706. **Shri C. R. Narasimhan:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that in 1953, the Institute of Chartered Accountants so amended the Regulations made under the Chartered Accountants' Act, 1949 as to remove the concessions given to B. Com.'s under the said Act and the previous Auditors Certificates Rules, 1932;

(b) if so, the reasons therefor; and

(c) whether Government had consulted the Universities before approving this amendment?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) Yes, Sir; the amended regulations are to take effect from 1st July, 1956.

(b) The concessions were withdrawn with a view to raise the quality and standard of the examinees and to give all categories of graduates equal opportunities.

(c) No, Sir.

Shri C. R. Narasimhan: Were not these concessions originally given by

Government on their own initiative, under the Auditors Certificates Rules, 1932, to attract better types of people in the profession?

Shri B. R. Bhagat: The concessions were given not to attract better types of candidates, but on representation during the passing of the Chartered Accountants Act, 1949. The Institute of Chartered Accountants, from experience, found that the standard of the candidates coming for the examination was not good and there were a large number of failures. In order to improve the quality of the profession, this concession has been withdrawn.

Shri C. R. Narasimhan: Does it not amount to a reflection on the product of the Universities.....

Mr. Speaker: Order, order.

Shri C. R. Narasimhan: I would like to put it in some other form. Is it not a fact that B. Coms. undergo regular feature for all the subjects prescribed for the first examination for Chartered Accounts and will Government advise the restoration of *status quo ante*?

Shri B. R. Bhagat: The Inter University Board found that the syllabus for B. Com. in the various universities varies and the standard varies. They themselves suggest some composite syllabus and they are going to give effect to it.

Shri C. R. Narasimhan: If that syllabus is evolved, will the concession be restored?

Shri B. R. Bhagat: We have written to the Board and we are awaiting their reply.

National Archives

*2712. **Shri H. N. Mukerjee:** Will the Minister of **Education** be pleased to state whether the attention of Government has been drawn to the fact that the rules regarding admission to and use of the National Archives are rigid and compare unfavourably with similar rules abroad?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): No, Sir.

Shri H. N. Mukerjee: Is it not a fact that unlike in England, for example, it is very difficult for research workers or even public workers like Members of Parliament to have access to the National Archives without having a certificate from a particular Government Department?

Dr. M. M. Das: For the preservation of the records and for the security arrangements, it is necessary to have the permission, but the conditions are not at all harsh in comparison with the conditions in other parts of the world.

Shri H. N. Mukerjee: Is it not intended that greater facilities should be offered to research workers and particularly that the records which are more than 30 years old should be marked "open access records" so that they can be looked into without extraordinary botheration?

Dr. M. M. Das: The rules governing the access to records were revised in the year 1949, under the new conditions due to the Independence of the country. According to these rules, records upto 1901 were made accessible. This rule has been changed and it has been decided that records 40 years old should be made available for study to *bona fide* research workers. This new rule, which I have just now stated, will be put into operation very soon.

Shri H. N. Mukerjee: Will Government consider a comparison of the facilities offered in our National Archives with those offered by the Public Record Office in London and the comparable institute in New York and then come to definite principles on this point?

Dr. M. M. Das: I have got at my disposal some facts regarding the rules governing the access to records in other parts of the world. For example, in Russia and Prussia records

upto the year 1888 were available for research; in Denmark records upto 1880 were available for research; in Italy, records relating to foreign, political and general administration are open to research up to the year 1867 only. Only records which are fifty years old are open to research in the National Archives, Washington. Now, we have made records forty years old to be available for our students.

Shri H. N. Mukerjee: Is it a fact that research workers who copy out extracts from "open access" records which date from before 1902 have to submit those extracts for scrutiny by certain officers of Government—a procedure which is unknown in any comparable institution elsewhere?

Dr. M. M. Das: I do not know whether this procedure is unknown anywhere, but the thing is that records are divided into two groups, confidential and non-confidential. Extracts from confidential records were to be examined, before this new rule, by the Ministry concerned, whereas extracts from non-confidential records were examined by the Director of Archives.

GOLD

*2713. **Shri Sanganna:** Will the Minister of **Natural Resources and Scientific Research** be pleased to refer to the reply given to starred question No. 1387 on the 29th March, 1954 and state the progress made so far in the prospecting for gold in the District of Keonjhar (Orissa)?

The Minister of Natural Resources (Shri K. D. Malaviya): The work carried out by the Indian Bureau of Mines indicates that further detailed prospecting in the area is essential to estimate whether some of the areas would prove to be workable economic propositions.

Shri Sanganna: May I know whether any extraction of gold has so far been done?

Shri K. D. Malaviya: No, Sir. Only surveys are going on in certain areas. Whatever extraction in the prospecting process has been undertaken indicates that we can get gold at the rate of two grains per ton.

Shri Sanganna: May I know when the actual work will be done in full swing?

Shri K. D. Malaviya: Prospecting is going on and it will take some more time to complete it.

SMUGGLING OF JEWELLERY

*2715. **Dr. Rama Rao:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that jewellery worth Rupees four crores has been seized from a Bank in connection with an attempt to smuggle it to Pakistan; and

(b) if so, the measures taken by Government with regard to its disposal?

The Deputy Minister of Home Affairs (Shri Datar): (a) The Government of India have no information.

(b) Does not arise.

Dr. Rama Rao: May I know if the Government are aware that this matter was raised in the Uttar Pradesh Assembly and discussion was not allowed on the ground that it concerns the Central Government?

Shri Datar: I remember to have read that a similar matter was raised in the U.P. Assembly.

Dr. Rama Rao: May I know if the Government have received information that Rs. 50 lakhs worth of jewellery was smuggled across India to Pakistan, probably by a certain Nawab of U.P. and the matter was not allowed to be discussed in the U.P. Assembly for the same reason that it concerns the Central Government?

Shri Datar: Such a piece of information had appeared in the Press and Government made enquiries and they found that there was no question of any smuggling.

Shri Joachim Alva: Does the Reserve Bank call for accounts from every scheduled and non-scheduled bank every bi-monthly or weekly of the gold held by them in the form of both bullion and jewellery?

Shri Datar: The hon. Member will kindly address the Minister of Finance in this respect.

Shri Joachim Alva: You are answering this question.

Mr. Speaker: Order, order. The question refers to jewellery. We go to the next question.

ARMY RECRUITMENT RULES

*2718. **Chaudhri Muhammed Shaffee:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the definition of the term "Dogras" provided in the Rules of Army Recruitment does not include Harijans who live in large numbers in the Dogri speaking regions, particularly in Jammu and Kashmir State;

(b) whether representations have been received by Government for the removal of such discrimination against Harijans; and

(c) if so, the action taken thereon?

The Deputy Minister of Defence (Sardar Majithia): (a) No.

(b) No.

(c) Does not arise.

چودھری محمد شفیع : کیا آنریبل منسٹر بتائینگے کہ مہابیر تیاگی جی جب جموں میں گئے تو ان کے پاس اس سلسلہ میں شری اوم پرکاش شراف ، ماسٹر رام رکھا مل و مہاشہ ناھر سنگھ نے ایک میمورنڈم پیش کیا تھا ؟

[Chaudhri Muhammed Shaffee: Will the Hon'ble Minister state whether at the time Shri Mahabir Tyagi went to Jammu Shri Om Prakash Saraf, Master Ram Rakha Mal and Mahashya Naher Singh presented a memorandum to him in this connection?]

Sardar Majithia: The Ministry does not know anything about it.

CENTRAL SECRETARIAT SERVICE OFFICERS

*2722. **Shri K. C. Sodhia:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that a scheme for the training of Central Secretariat Service Officers in Part A States is to be introduced shortly;

(b) if so, the salient features of this Scheme; and

(c) how many officers will receive such training every year?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The Central Secretariat Service (Reorganisation and Reinforcement) Scheme provides for executive training of officers of the Central Secretariat Service for a period of not less than two years in posts under the State Governments to enable them to widen their outlook by actual contact with administration in the districts. The scheme has been in force since 1952. Its salient features are:—

(i) Attachment to District and Sub-Divisional offices in all their branches including exercise of powers as Magistrates.

(ii) Training in the various Departments of the State Secretariat.

(iii) Departmental examinations, if any, conducted by the State Governments with a view to assess how far the officers have assimilated the training imparted to them.

(c) It is proposed to have 24 officers on training at one time. The number of officers sent out during the last three years, however, is as under:—

1952	..	..	.. 1
1953	..	..	.. 2
1954	..	..	.. 16

Shri K. C. Sodhia: Am I to understand that the whole scheme will be confined to 24 officers or 24 officers will be deputed every year?

Shri Datar: These officers are to be sent on deputation for two years and at one time 24 officers will be receiving training in the districts.

Shri K. C. Sodhia: How many are receiving training now?

Shri Datar: I have given the figures —1, 2 and 16 at present.

SCHEDULED CASTES AND TRIBES

*2723. **Shri Sanganna:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the Government of Orissa have sent any new schemes for the socio-economic development of the Scheduled Tribes and Scheduled Castes for the year 1955-56;

(b) if so, their nature; and

(c) the cost of these schemes?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The development schemes of the Government of Orissa for the welfare of Scheduled Tribes and Scheduled Castes for the year 1955-56 have not yet been received by the Government of India.

Shri Sanganna: May I know whether any scheme received from the Government of Orissa already by the Centre is still pending consideration by the Government of India?

Shri Datar: Possibly, the hon. Member is making a reference to the schemes for the last year. For the year 1954-55 Rs. 33 lakhs had been given to them for development schemes.

Shri Sanganna: May I know whether any directive is issued by the Government of Orissa for sending these schemes or the Government of Orissa send them *suo motu*?

Shri Datar: Every year, early in January or February we send out a detailed letter to all the State Governments pointing out the figures that Governments are entitled to fix for grants in respect of Scheduled Castes, Scheduled Tribes and also scheduled areas and the replies are to be received by the end of March this year. *They have not yet been received from some States and we are taking steps to send reminders to them.

Shri Thimmaiah: Is it not a fact that there is considerable delay in allotting the amount to the different States regarding the work for the Scheduled Castes and Tribes, thereby impeding the progress of the work undertaken by the States?

Shri Datar: If I may say so without any offence, we do not receive the schemes in time. After the schemes are received here, we get them scrutinised as early as possible and give them the amounts.

Shri C. R. Narasimhan: May I ask the names of States that have not sent the proposals?

Shri Datar: I have not got their names—they are at least eight or nine.

Shri Veeraswamy: May I know whether any other States have sent to the Central Government any such schemes for social and economic development of the Scheduled Castes and if so, what are the States?

Shri Datar: A number of States have already sent their schemes and they are under scrutiny and we propose to give them at least half the amount in respect of these schemes which had been sanctioned.

Shrimati Khongmen: May I know whether the amount mentioned by the Deputy Minister was entirely borne by the Centre or it included contribution by the States also?

Shri Datar: So far as the Scheduled Tribes and scheduled areas are concerned, the grants are made under article 275 of the Constitution; but in addition to this amount, the State Governments also spend considerable moneys.

*This was later corrected by Shri Datar *vide* Col.—

PADAR SAPPHIRE MINES

*2724. **Chaudhuri Muhammed Shaffee:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether Government have taken over the Padar Sapphire Mines in the Jammu and Kashmir State;

(b) if so, when and on what terms; and

(c) the number of survey parties which have conducted surveys of these mines and the result thereof?

प्राकृतिक संसाधन मंत्री (श्री के० डी० मालवीय): (क) और (ख). जी, नहीं ।

(ग) ज्योलाजीकल सर्वे आफ इंडिया ने इन खानों में कोई भी काम नहीं किया हैं ।

TRIBES ADVISORY COUNCILS

*2725. **Shri Sanganna:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any Tribes Advisory Councils have been set up in non-Scheduled Areas during the year 1954 under the provisions of para 4 of the Fifth Schedule of the Constitution; and

(b) if so, the names of the places where they have been set up?

The Deputy Minister of Home Affairs (Shri Datar): (a) No.

(b) Does not arise.

I may point out to the hon. Member that in the year 1953, West Bengal have appointed such a Council.

Shri Subodh Hasda: May I know whether it is a fact that the special officers engaged in tribal welfare work are not members of the Tribal Advisory Council in the States?

Shri Datar: I have not got that information.

Shri Sanganna: May I know whether the Government of Andhra have sent a proposal for this purpose after separation from the Madras State?

Shri Datar: I shall make enquiries.

Shri Joachim Alva: The Home Ministry has circularised a Tribal Welfare Conference Number in which are printed a large number of suggestions for the tribal welfare—both major and minor. I want to ask the hon. Minister whether there has been any serious attention paid at least to implement the minor suggestions in the book.

Shri Datar: I may point out to the hon. Member, Government have been giving serious attention to all the serious and non-serious suggestions and Government have sent out a copy of the report together with the resolutions to all the State Governments for implementing them to the extent that is possible.

Mr. Speaker: We will now take up those questions which were tabled by hon. Members who were absent when called.

ELECTION CHARGES

*2709. **Shri K. C. Sodhia:** Will the Minister of **Law** be pleased to lay on the Table of the House a statement showing:

(a) the amount of contribution paid towards election charges to various States (Parts 'A' and 'B') during 1954-55; and

(b) the principles on which these contributions are made?

The Minister in the Ministry of Law (Shri Pataskar): (a) and (b). A statement is laid on the Table of the House. [*See* Appendix XIII, annexure No. 2].

Shri K. C. Sodhia: From the statement I find that there are two kinds of expenses; one for the preparation of electoral rolls and the other for the conduct of the elections. In the statement, the contributions paid for elections charges to the different

States have been put down in lump sums. May I take it that the amount shown against each State is both for the preparation of electoral rolls and also for conducting the elections?

Shri Pataskar: Yes.

Shri K. C. Sodhia: Can we get a break-up of the figures so as to know in what States elections were conducted and in what States re-elections were conducted?

Shri Pataskar: Generally these expenses are incurred in the first instance by the States concerned and after they are incurred, account is made up on a 50—50 basis and they are shared. I do not think it will serve any purpose to have a break-up on the lines suggested by the hon. Member.

Dr. Rama Rao: The figures given are for the year 1954-55, during which time there was a general election in Andhra. The amounts given to various States are: Andhra, Rs. 15 lakhs and odd; Bombay, Rs. 17 lakhs and odd; Madras, Rs. 25 lakhs and odd. But in 1954-55, there were general elections in Andhra. May I know whether the amount shown against Andhra includes the expenses on the recent general elections there?

Shri Pataskar: I think the question as tabled was the amount of contribution paid towards election charges to various States during 1954-55. That is the question and a reply has been given to that question.

SPINNING

*2710. **Shri Bhakt Darshan** (on behalf of **Shri Hem Raj**): Will the Minister of **Education** be pleased to lay a statement on the Table showing the names of the States to which aid has been given for teaching spinning in Basic Schools during 1954-55?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): A statement is laid on the Table of the House. [*See* Appendix XIII, annexure No. 3].

श्री भक्त दर्शन : इस विवरण को देखने से यह ज्ञात होता है कि केवल चार राज्यों को यह सहायता दी गई है अर्थात् आसाम, उड़ीसा, पंजाब और सौराष्ट्र। क्या मैं जान सकता हूं कि इन में से प्रत्येक राज्य को कितनी सहायता दी गई है ?

Dr. M. M. Das: The amount of central grant sanctioned for Assam is Rs. 23,413; for Orissa, Rs. 51,579; for Punjab, Rs. 7,074; and for Saurashtra, Rs. 18,750.

श्री भक्त दर्शन : क्या मैं जान सकता हूं कि इन चार राज्यों के सिवाय अन्य राज्यों ने भी कोई योजनायें भेजी थीं और यदि हां, तो उनके विषय में क्या विचार किया गया ?

Dr. M. M. Das: The introduction of crafts in these schools forms part of a bigger scheme, namely "expansion of the basic education in the country". Now, this big scheme has got seven sub-schemes. Two of these sub-schemes relate to crafts in schools. Other State Governments have applied for grants under other sub-schemes and they have been given grants under those respective sub-schemes which they have submitted to the Central Government.

श्री भक्त दर्शन : क्या इस सहायता को देते समय राज्य सरकारों पर यह शर्त भी लगाई जाती है कि वे अपने अध्यापकों को ऊंचे वेतन स्तर दें, क्योंकि यह आम शिकायत है कि बेसिक स्कूलों के अध्यापकों को पूरा वेतन नहीं मिलता ?

Dr. M. M. Das: These grants are given on a matching scale, that is, a certain percentage is given as grant by the Central Government and the rest of the money could come from the State Government and so far the payment to the existing teachers of these schools is concerned, they are made by the State Government.

Shri V. Muniswamy: May I know whether training is given in both

primary a nd secondary schools or only in one type of schools?

Dr. M. M. Das: I must submit to the hon. Member that so far as the selection of the particular craft in these schools is concerned, the responsibility lies with the State Government and not with the Central Government. The State Government selects a particular craft to be introduced in the schools according to the conditions prevailing in that particular part of the country.

CORRECTION OF ANSWER TO STARRED QUESTION

The Deputy Minister of Home Affairs (Shri Datar): May I add to the answer given in respect of a supplementary question on Question No. 2723?

Mr. Speaker: Yes.

Shri Datar: *I stated that schemes had not been received from some States. But I find that just this morning we have received proposals on schemes in respect of the economic development so far as the Scheduled Castes and Scheduled Tribes in Orissa are concerned. These are the figures that have been given by the State.

Agriculture and Forests—Rs. 7·40 lakhs.

Co-operation—1·84 lakhs.

Industry—·19 lakhs.

Minor roads—52,000.

The total amount comes to Rs. 9,95,000.

OFFICES IN POONA

*2711. **Shri M. S. Gurupadaswamy:** Will the Minister of Defence be pleased to state:

(a) the number of offices and Defence installations in and around Poona;

(b) whether there is any proposal to shift to other places some of these offices; and

(c) if so, whether any decision has been taken in the matter?

The Deputy Minister of Defence (Sardar Majithia): (a) About 100.

(b) No, Sir.

(c) Does not arise.

Shri M. S. Gurupadaswamy: May I known whether the number of offices concentrated in and around Poona is the highest number when compared to other places?

Sardar Majithia: I shall require notice for that question. But I understand it is quite a decent number.

Shri M. S. Gurupadaswamy: May I know whether steps will be taken by the Government to see that such concentration is done away with and some offices are moved away to some other places?

Sardar Majithia: In view of the accommodation available there, I think it will not be necessary to move any offices from that place at the moment.

Shri M. S. Gurupadaswamy: May I know whether it is not dangerous to concentrate so many offices in one place and in one area?

Sardar Majithia: No, Sir. It is not considered dangerous at all.

WRITTEN ANSWERS TO QUESTIONS

HIGHER RURAL EDUCATION COMMITTEE

*2702. **Shri D. C. Sharma:** Will the Minister of Education be pleased to refer to the reply given to starred question No. 132 on the 17th November, 1954 and state whether the suggestions made by Dr. Peter Manniche have been considered by the Committee on higher Rural Education appointed by Government for a suitable pattern for higher education in rural areas?

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*See Col.—

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): Yes, Sir.

DEVELOPMENT LOANS

*2704. **Thakur Jugal Kishore Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether any State has qualified to receive a loan for development purposes out of the small savings collection made in excess of 80 per cent. of the assigned target of the State concerned; and

(b) if so, the State-wise figures of such loans that have been given so far?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) Final figures of collection for the year 1954-55 are not yet available, but on the basis of the net realisations made upto the end of February, 1955, the following States have exceeded 80 per cent. of their targets in 1954-55:—

Assam, Bihar, Orissa, Uttar Pradesh, Madhya Bharat, Pepsu, Saurashtra, Rajasthan, Ajmer, Bhopal, Kutch, Himachal Pradesh, Vindhya Pradesh, Bombay, Madras, West Bengal, Hyderabad, Mysore and Delhi.

(b) The loans will be advanced in the current year after the final figures of collections during 1954-55 become available.

राष्ट्रीय पुस्तक न्यास (नेशनल बुक ट्रस्ट)

*२७०५. **डा० राम सुभग सिंह :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार का विचार देश में एक राष्ट्रीय पुस्तक न्यास की स्थापना करने का है ;

(ख) न्यास का स्वरूप क्या होगा तथा उसके कितने सदस्य होंगे ;

(ग) उस पर अनुमानतः वार्षिक व्यय क्या होगा , और

(घ) उसकी स्थापना कब होगी ?

शिक्षा मंत्री के समासचिव (डा० एम० एम० दास): (क) अभी तक अन्तिम निर्णय नहीं किया गया है ।

(ख) से (घ). प्रश्न उत्पन्न नहीं होते ।

DEPORTATION OF FOREIGN NATIONALS

*2707. **Shrimati Ila Palchoudhury:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any nationals of Foreign States were deported from India during each of the years 1953 and 1954;

(b) if so, their total number and the names of the countries to which they belonged; and

(c) the grounds of their deportation from India?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). A statement containing the information is placed on the Table of the House. [*See* Appendix XIII, annexure No. 4.]

SPORTS STADIA

*2708. **Shri Viswanatha Reddy:** Will the Minister of **Education** be pleased to state the amount advanced by Government by way of subsidy for the maintenance of Sports Stadia in the country?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): Nil.

KATERI POWER HOUSE

*2714. **Shri N. M. Lingam:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the Kateri Power House that was supplying electric power to the Ordnance Factory, Aravankadu is to be closed down; and

(b) if so, the reasons therefor?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes, Sir.

(b) The reasons are—

(i) shortage of water in the Kateri Lakes which feed the Power House;

(ii) high operational costs;

(iii) availability of cheaper and steady electric supply from Pykara.

रहीम खान खाना का मकबरा

*२७२०. **श्री एस० एन० दास :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या हुमायूं के मकबरे के पास स्थित रहीम खान खाना के मकबरे की हालत में सुधार करने के लिये अभी हाल में कोई विशेष कार्यवाही की गई है ;

(ख) यदि हां, तो उस कार्यवाही का ब्योरा क्या है ; और

(ग) उस पर कितना धन व्यय होने की सम्भावना है ?

शिक्षा मंत्री के समासचिव (डा० एस० एम० दास): (क) जी हां, ।

(ख) दीवारों के सुराखों और दरारों में चूना भरना जैसी इमारती मरम्मत की गई है और दक्षिणी बाहरी भागों में मरम्मत की गई है । मरम्मत का कार्य जारी है ।

(ग) ५०,००० रुपया ।

GEOGRAPHICAL NAMES

*2721. **Dr. Ram Subhag Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether there is any proposal before Government for introducing uniformity in the spellings of Geographical names; and

(b) if so, whether Government have taken any decision in this regard?

The Minister of Natural Resources (Shri K. D. Malaviya): (a) Yes, Sir.

(b) A statement giving the required information is laid on the Table of the House. [*See* Appendix XIII, annexure No. 5.]

STATE CAPITAL

*2726. **Dr. Ram Subhag Singh:** Will the Minister of **Finance** be pleased to lay a statement on the Table of the House showing:

(a) whether any State Governments have, this year, approached the Central Government for financial aid for their capital construction programmes;

(b) if so, the names of such State Governments;

(c) the amounts asked for; and

(d) the amounts given so far to the various States for this purpose since August, 1947?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) to (d). A statement is laid on the Table. [*See* Appendix XIII, annexure No. 6.]

STATE SOCIAL WELFARE ADVISORY BOARD, MYSORE

1154. **Shri Wodeyar:** Will the Minister of **Education** be pleased to state:

(a) the tenure of the State Social Welfare Advisory Board, Mysore; and

(b) the progress achieved so far by the Board?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) The tenure of the State Board is for one year in the first instance. The Mysore Board was constituted on the 21st October, 1954.

(b) The State Board has already launched five Welfare Extension Projects in the State. Arrangements for two more projects will be finalized soon. The Central Social Welfare Board has sanctioned in all Rs. 1,12,300/-, in favour of 31 voluntary welfare organisations on the recommendations of the State Board.

FINANCIAL ASSISTANCE

1155. Chaudhri Muhammed Shaffee: Will the Minister of **Finance** be pleased to state:

(a) the total financial assistance and aid received by India from U.S.A., U.K., and U.S.S.R. respectively since 1948; and

(b) the total financial assistance given by India to friendly countries during the above period?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) The total financial assistance and aid received by India on a grant basis from U.S.A. and U.K. from 1948 to 1954-55 (Revised Estimates) is Rs. 40·48 crores and Rs. 6·2 lakhs, respectively. No assistance has so far been actually *received* from U.S.S.R.

(b) Rs. 213·73 lakhs.

REHABILITATION OF *Ex*-SOLDIERS

1156. Chaudhri Muhammed Shaffee: Will the Minister of **Defence** be pleased to state:

(a) the steps taken by Government to rehabilitate the *ex*-soldiers of Jammu and Kashmir State respectively;

(b) whether any representation has been received by Government in this regard; and

(c) if so, what action has been taken thereon?

The Deputy Minister of Defence (Sardar Majithia): (a) The Government of India have requested the Government of Jammu and Kashmir to accord preference to *ex*-servicemen in filling up appointments in the Police, Excise, Forests and other Departments for which military training is a special qualification. Steps are also being taken to acquire land for settling *ex*-servicemen in land colonies.

(b) No.

(c) Does not arise.

ARMY EDUCATIONAL REQUIREMENTS

1157. Shri Ramananda Das: Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the Army Headquarters (MT5) purchases books for Army Educational requirements;

(b) whether it is a fact that A.E.C. Centre and School, Pachmarhi reviews the books and sends its review report to the department;

(c) whether it is a fact that the opinion of the A.E.C. Centre and School is generally ignored and that the department has no standard policy in the matter; and

(d) if so, the action Government propose to take in the matter?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes.

(b) Books received from publishers and firms are, as far as possible, reviewed in the Army Headquarters to assess their suitability for educational training in the Army. Books are also sent to the A.F.C. Centre and School and the Education Officers employed with Units, Formations and other Establishments for review and report.

(c) The opinion of the A.F.C. Centre and School and other establishments, who are consulted, is generally accepted by the Army Headquarters.

(d) Does not arise.

ARMY EDUCATIONAL REQUIREMENTS

1158. Shri Ramananda Das: Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the Army Headquarters (MT5) got some Hindi books (Lesson Notes) printed during the year 1953-54;

(b) whether it is a fact that orders worth about rupees one lakh were placed with one Messrs. Chaudhri

Balwant Rai & Co. of Delhi without calling for tenders, as required under the rules;

(c) whether it is a fact that the rates allowed to the party were much higher than the scheduled rates of Government; and

(d) the action Government propose to take in the matter?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes.

(b) and (c). Yes. Orders were placed with Messrs. Chaudhri Balwant Rai and Co. of Delhi without calling for tenders. The amount involved is substantially less than Rs. one lakh and payment is being made at the scheduled rates.

(d) Suitable action will be taken after the matter has been fully investigated.

भूतपूर्व सैनिकों की युद्धोत्तर पुनर्निर्माण निधि

११५६. **श्री भक्त दर्शन :** क्या रक्षा मंत्री सभा पटल पर एक विवरण रखने की कृपा करेंगे जिसमें निम्नलिखित बातें दिखाई गई हों :

(क) वित्तीय वर्ष १९५४-५५ में उत्तर प्रदेश के भूतपूर्व सैनिकों की युद्धोत्तर पुनर्निर्माण निधि में से कितना धन व्यय किया गया है ;

(ख) किन किन मदों पर व्यय किया गया ,

(ग) वर्ष के अन्त में इस निधि में कितनी राशि शेष रही ; और

(घ) १९५५-५६ के वित्तीय वर्ष में किन किन मदों पर कितना कितना धन व्यय करने का अनुमान लगाया गया है ?

रक्षा उपमंत्री (सरदार मजीठिया): सूचना इकट्ठी की जा रही है और सभा के पटल पर रख दी जायेगी ।

SURVEY OF MINERAL OIL

1160. Shri N. B. Chowdhury: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that a company formed by the Caltex and the B.O.C. jointly proposes to undertake a survey of mineral oil in West Bengal in the areas outside the 10,000 square miles already under survey by the Standard Vacuum Oil Company;

(b) if so, the districts in which the survey will be undertaken; and

(c) the terms under which the Company will work?

The Minister of Natural Resources (Shri K. D. Malaviya): (a) Government were informed by Caltex some time ago that it had such a proposal under consideration, but are not aware that anything has come out of it.

(b) and (c). Do not arise.

CONFERENCE OF ZOOLOGISTS

1162. Shri Bhagwat Jha Azad: Will the Minister of **Natural Resources and Scientific Research** be pleased to state the decisions arrived at in the conference of Zoologists held in New Delhi on the 5th April, 1955?

The Minister of Natural Resources (Shri K. D. Malaviya): Actually no decisions were arrived at. The suggestions made at the Conference are under Government's consideration.

PRESERVATION OF MONUMENTS

1163. Shri S. N. Das: Will the Minister of **Education** be pleased to state:

(a) the States which have become more active and interested in the preservation of monuments of local importance since the Central Advisory Council of Archaeology made recommendations in this regard; and

(b) which are the States which have

started separate departments and have allotted funds for this purpose?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). A statement is attached. [*See* Appendix XIII, annexure No. 7].

राष्ट्रीय स्वयं सेवक दल

११६४. { श्री बासप्पा :
श्री भक्त दर्शन :

क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) राष्ट्रीय स्वयं सेवक दल की योजना के अन्तर्गत १९५५-५६ में कुल कितने कैम्प संगठित करने का विचार है, और

(ख) वे किन किन स्थानों पर लगाये जायेंगे ?

रक्षा उपमंत्री (सरदार मजीठिया): (क) २००।

(ख) एक सूची जिसमें १९५ कैम्पों के स्थान दिखाये गये हैं, सभा के पटल पर रखी जाती है। [देखिये परिशिष्ट १३, अनुबन्ध संख्या ८]। शेष कैम्पों के स्थान अभी निश्चित नहीं किये गये।

Scholarships to Scheduled Castes Students

1165. Shri Ibrahim: Will the Minister of **Education** be pleased to state the number of applications received from the Scheduled Castes students from the Bihar State for the Government of India Scholarships during 1954-55?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): 441.

Seizure of Gold

1166. Shri Ibrahim: Will the Minister of **Finance** be pleased to state the quantity of gold seized by the Customs authorities in India during the period from October, 1954 to March, 1955?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): The total quantity of gold seized by the Customs authorities in India during the period from October, 1954 to March, 1955, was 18,842 tolas. **tolas.**

Pay Scales of University Teachers

1167. Dr. Ram Subhag Singh: Will the Minister of **Education** be pleased to refer to the reply given to starred questioon (No. 171 on the 24th February, 1955 and state:

(a) whether Government have received any representation from the Vice-Chancellor of the Delhi University also requesting that there should not be any discrimination between the University-appointed and College-appointed teachers in respect of pay and allowances; and

(b) if so, whether Government have since taken any decision in the matter?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) Government have decided that the Constituent Colleges of **Delhi** University will be the concern of the University Grants Commission.

Excise Duty

1168. Shri S. C. Samanta: Will the Minister of **Finance** be pleased to state:

(a) the kinds of vegetable products on which excise duties are levied; and

(b) whether any such products have been exempted from duties since 1947?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) Under item 11 of the First Schedule to the Central Excises and Salt Act, 1944, any vegetable oil or fat which, whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human

consumption, is liable to excise duty as "Vegetable Product".

(b) Vegetable Product used for industrial purposes is exempted from excise duty. Such exemption has been allowed since December, 1948.

POLICE EXPERTS CONFERENCE

1169. Dr. Ram Subhag Singh: Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that police experts drawn from various States of India and the Centre held a conference at Lucknow during the last week of March, 1955;

(b) if so, the main purpose of that conference; and

(c) the new methods of crime investigation discussed and accepted at the conference?

The Deputy Minister of Home Affairs (Shri Datar): (a) An All India Conference of Identification Experts was held at Lucknow from 22nd to 26th of March, 1955. Most of the participants in this conference were Police Officers dealing with the subject of finger prints etc.

(b) The conference was held to discuss subjects such as finger prints, hand-writing identification, fire-arms ballistics.

(c) The Minutes of the conference are not yet available.

GAZETTED POSTS (MANIPUR)

1170. Shri Rishang Keishing: Will the Minister of **Home Affairs** be pleased to state:

(a) the number of Gazetted posts created in Manipur and for which interviews have been held so far since the integration of Manipur; and

(b) whether any concessions are given to the local tribal candidates in such appointments?

The Deputy Minister of Home Affairs (Shri Datar): (a) Thirty-one Gazetted posts have been created in addition to those which existed in the pre-integration period. Interviews were held for recruitment to three posts by a local committee and for five posts by the Union Public Service Commission.

(b) Due consideration is given to applications from local tribal candidates, consistently with the requirements of efficiency. The percentage of vacancies filled by direct recruitment in Manipur State to be reserved for candidates from Scheduled Tribes is under consideration.

The maximum age-limit prescribed for appointment to a post or service is increased by three years and it is proposed to grant a further relaxation by increasing it to five years. The fees prescribed for admission to selections by competitive examinations are reduced to one-fourth.

ASSISTANT SUPERINTENDENTS

1171. Shri Ramananda Das: Will the Minister of **Home Affairs** be pleased to state the number of candidates proposed to be selected from the competitive examination scheduled to be held in May, 1955 for promotion of Assistants of the Central Secretariat Service to Assistant Superintendent's grade?

The Deputy Minister of Home Affairs (Shri Datar): Twenty. Out of these, five are propose to be selected from amongst the members of Scheduled Castes/Tribes.

EXCAVATION WORK

1172. { Shri S. C. Samanta: / Shri N. B. Chowdhury:

Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that Archaeological excavations are being carried on at Tamluk (ancient Tamralipta) in the District of Midnapur (West Bengal);

(b) if so, when the work began and

how many persons are working there at present;

(c) the nature of the finds; and

(d) whether it is a fact that non-official excavations were also carried on and many valuable finds, were deposited in the Ashutosh College Museum, Calcutta?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) The work began in March, 1955. Information about the number of persons working there is not readily available.

(c) Pottery including 'Rouletted Ware; terracotta figurines of Sunga and Mauryan period, sherds depicting representation of punch-marked coins and neolithic celts.

(d) Government have no information.

Expenditure on Education

1173. Shri Ibrahim: Will the Minister of **Education** be pleased to state:

(a) Whether it is a fact that Government have suggested to the State Governments to progressively raise their expenditure on Education to twenty-five per cent. of the total budget allocation; and

(b) if so, the response of the State Governments to this?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No, Sir.

(b) Does not arise.

Re-organization of the Ministry of Home Affairs

1174. Shri Ibrahim: Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have decided to reorganize the Ministry of Home Affairs; and

(b) if so, the nature and extent of the reorganization envisaged?

The Deputy Minister of Home Affairs (Shri Datar): (a) There is no such proposal.

(b) Does not arise.

Central Laws

1175. Shri Hem Raj: Will the Minister of **Law** be pleased to state:

(a) whether any up-to-date inventory has been prepared of the Central laws which have become obsolete in the various States of the Union in consequence of Article 13(1) of the Constitution; and

(b) if so, whether a copy of it will be laid on the Table of the House?

The Minister in the Ministry of Law (Shri Pataskar): (a) No.

(b) Does not arise.

Red Fort

1176. Shri G. L. Chaudhary: Will the Minister of **Education** be pleased to state:

(a) the number of visitors who visited the Red Fort, Delhi in the year 1954;

(b) the total gate fees collected there during the year; and

(c) the number of free passes issued to the visitors during the same period?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) 4,55,235.

(b) Rs. 56,149/-.

(c) No figures are available.

Ruins of Old Temples

1177. Shri G. L. Chaudhary: Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that some ruins of old temples have been found recently in the Sitapur District of Uttar Pradesh; and

(b) if so, the nature of the articles discovered there?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) Ruins of a temple and images and a Ninth Century stone inscription have been found.

NATIONAL ARCHIVES

1178. Shri H. N. Mukerjee: Will the Minister of **Education** be pleased to state:

(a) whether the attention of Government has been drawn to the inaccuracies occurring in popular pamphlets on "our neighbours", "source materials" etc. published by the National Archives of India; and

(b) if so, the action proposed to be taken?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). The Government's attention has been drawn to only one inaccuracy, which will be corrected in the second edition of the pamphlet.

BOOKS

1179. Shri B. S. Murthy: Will the Minister of **Education** be pleased to state:

(a) the steps taken to popularise the books to which prizes were awarded during the previous years;

(b) the amount allotted therefor; and

(c) whether all such books have since been translated into and printed in other regional languages?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) The following steps were taken:

(i) Press Notes were issued giving names of the books to which prizes were awarded.

(ii) The top few books for neo-literates were decided to be translated into other regional languages.

(iii) State Governments were requested to publicise the books and supply copies to libraries, etc.

(b) No specific amount only for popularising the books has been allotted.

(c) Some books have been printed and the rest are being translated and/or printed.

INDUSTRIAL CENTRES FOR *EX*-SERVICEMEN

1180. Shri Boovaraghasamy: Will the Minister of **Defence** be pleased to state:

(a) the number of Industrial Centres started by Government in Madras State for imparting training to *ex*-Servicemen;

(b) how many of them were closed down subsequently;

(c) the reasons for the closure;

(d) since how long the Government-aided Industrial factory run by the Co-operative Department at Kumbakonam in Madras State has been working; and

(e) how many *ex*-Servicemen are working in this centre?

The Deputy Minister of Defence (Sardar Majithia): (a) to (e). The information is being collected and will be laid on the Table of the House.

RECRUITMENT OF AIR FORCE PILOTS

1181. Shrimati Ila Palchoudhury: Will the Minister of **Defence** be pleased to state:

(a) the general procedure adopted for recruitment of Air Force Pilots;

(b) the minimum qualifications prescribed for pilots; and

(c) the terms of their service?

The Deputy Minister of Defence (Sardar Majithia): (a) to (c). A statement giving the required information is laid on the Table of the

House. [*See* Appendix XIII, annexure No. 9].

EXPENDITURE ON EDUCATION

1182. Shri Sanganna: Will the Minister of **Education** be pleased to state:

(a) whether a copy of the resolution passed by the All-India Educational Conference on the 30th December, 1954 at Patna demanding that 10 per cent. of the total income of the Central Government should be spent on education has been received by Government; and

(b) if so, the action Government propose to take thereon?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) Efforts are being made to step up expenditure on education within the financial resources available.

ONE-TEACHER SCHOOLS

1183. Shri A. M. Thomas: Will the Minister of **Education** be pleased to state:

(a) the total amount sanctioned as grants for the Scheme of One-teacher Schools as on the 1st April, 1955; and

(b) the number of teachers employed under the Scheme in each State so far?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) There is no such scheme.

(b) Does not arise.

MINES (JAMMU AND KASHMIR)

1184. Chaudhri Muhammed Shaffee: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of Mines which have been taken over by Government so far in the Jammu and Kashmir State;

(b) whether some Schemes are under the consideration of Government for their development; and

(c) if so, the nature of those Schemes and the total amount which would be spent in this regard?

The Minister of Natural Resources (Shri K. D. Malaviya): (a) to (c). None, Sir.

FREEDOM MOVEMENT

1185. Sardar Akarpuri: Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that the real record of C.I.D. reports against the freedom fighters during the freedom movement in India, since 1857 is with the Government of India;

(b) if so, where and how it is kept and maintained;

(c) whether the students of the history and research scholars are allowed to go through it and have notes;

(d) if not, the reasons therefor; and

(e) if the answer to part (c) above be in the affirmative, the facilities that are being given to them?

The Deputy Minister of Home Affairs (Shri Datar): (a) Such records were extensively destroyed before the formation of the Interim Government in 1946.

(b) to (e). Do not arise.

COASTAL SURVEY

1186. Shri Sanganna: Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the Indian Navy has been carrying out a thorough survey of the coast of India particularly of the major and minor Ports; and

(b) if so, the stage at which the matter stands at present?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes

(b) The following survey has been carried out by the Indian Navy since 1948:

1948—Sacramento Shoal.

1949—Kandla Creek, Bhatkal, Mangalore.

1950—Approaches to Kandla, Hansal and Navlakhi.

1951-52—Mandvi, Ranwara and Lushington Shoals.

1952-53—Godia Creek, Port Blair, Approaches to Mahanadi, Karanjie Islands (Bombay) and Kalpeni Bank.

1953-54—Kori Creek, Elphinston Harbour, Nancowry Harbour and Rongat Bay.

The survey of Bombay Harbour, Madras and Tuticorn is progressing now.

LONDON STUDENTS' HOSTEL

1187. Shri S. V. Ramaswamy: Will the Minister of **Education** be pleased to state:

(a) whether any hostel is being run in London for students by the Indian High Commissioner's Office, London; and

(b) if so, how many students are lodged therein?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes. Guildford Street Indian Students' Hostel, London.

(b) About 60 students.

Vol. IV
29th April, 1955 (Friday)

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

(Vol. IV contains Nos. 46—58)

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CONTENTS

COLUMNS

No. 46—FRIDAY, 22ND APRIL, 1955—

Papers laid on the Table—
The Madras Entertainments Tax (Andhra Amendment) Act, 1955 . . 5977
The Andhra Requisitioning of Buildings (Amendment) Act, 1955 . . . 5977
The Andhra Cinemas (Regulation) Act, 1955 5977
Amendments to Indian Aircraft Rules, 1937, with an Explanatory Note . 5978
Amendment to Tea Rules, 1954 5978
Amendment to Estate Duty Rules, 1953 5978
Declarations of Exemption under Registration of Foreigners Act, 1939 . . 5978—80
Replies to memoranda of Members *re* Demands for Grants, 1955-56—Railways . 5979
Message from Rajya Sabha 5979

Committee on Private Member's Bills and Resolutions—
Twenty-seventh Report —Presented 5979

Calling Attention to matter of Urgent Public Importance—
Strike by army workshop men at Kirkee . . . . 5980—83
Business of the House 5983
Finance Bill—
Schedules and Clause 1 . . . . . 5983—6005
Motion to pass, as amended—Adopted . . . 6005—39

Commanders-in-Chief (Change in Designation) Bill—
Motion to consider—Adopted . . . . . 6040—44
Clauses 1 to 3 and Schedule 6044
Passed 6044
State Bank of India Bill—
Motion to consider—Not concluded. . . . . 6045—46

Committee on Private Member's Bills and Resolutions—
Twenty-eighth Report—Adopted 6046
Resolution *re* Weights and Measures—Adopted as amended . . . . 6046—73
Resolution *re* Central Agricultural Finance Corporation—Not concluded . . 6073—6106

No. 47—SATURDAY, 23RD APRIL, 1955—

State Bank of India Bill—
Motion to consider—Not concluded . . 6107—6241
Business of the House 6241-42

No. 48—MONDAY, 25TH APRIL, 1955—

Motion for Adjournment—
Deportation of certain Satyagrahis by Portuguese Authorities . . . .
President's assent to Bills . . . . . .
ection to Committees—
Elndian Central Arecanut Committee . . . . . .
Estimates Committee . . . . . .
Public Accounts Committee . . . . . .
Motion *re* Association of Members of Rajya Sabha with Public Accounts Committee—
Adopted . . . . . .
All India Khadi and Village Industries Commission Bill—Introduced . . .

COL

State Bank of India Bill—
Motion to consider—Adopted 6401
Message from Rajya Sabha 6401

No. 49—TUESDAY, 26TH APRIL, 1955—

Papers laid on the Table—
Notification under Requisitioning and Acquisition of Immovable Property Act . 6401
Report on the First General Elections in India,1951-52-Volume I (General) . 6401
Notifications under Sea Customs Act . . . . . 6401—02

Insurance (Amendment) Bill—
Motion to consider—Adopted . . . . . 6402—114
Clauses 1 and 2 6411
Motion to pass—Adopted 6471

Reserve Bank of India (Amendment) Bill—
Motion to consider—Adopted . . . . . 6411—54
Clauses 1 to 11 . . . . . 6454—62
Motion to pass—Adopted 6462

Indian Railways (Amendment) Bill—
Motion to consider—Adopted . . . . . 6462—64
Clauses 1 and 2 6464-65
Motion to pass—Adopted 6465

Hindu Marriage Bill—
Motion to consider—Not concluded . . . . . 6465—6536
Message from Rajya Sabha. 6536

No. 50—WEDNESDAY, 27TH APRIL, 1955—

Committee on Private Member's Bills and Resolutions—
Twenty-ninth Report—Presented 6537
Correction of answer to Starred Question No. 2282 6537-38

Untouchability (Offences) Bill—
Motion to consider, as reported by Joint Committee—Adopted . . . 6538—6639
Clauses 2 . . . . . 6639—76

No. 51—THURSDAY, 28TH APRIL, 1955—

Papers laid on the Table—
Replies to memoranda from Members regarding Demands for Grants (Railways) for 1955-56 6677
Message from Rajya Sabha 6677
Business of the House 6678-79, 6831-34

Untouchability (Offences) Bill—
Clauses 3 to 17 and The Schedule . . . . . 6679—6824
Motion to pass , as amended—Adopted 6824

Hyderabad Export Duties (Validation) Bill—
Motion to consider—Adopted . . . . . 6825—30
Clauses 1 and 2 6830
Motion to pass—Adopted 6830

No. 52—FRIDAY, 29TH APRIL, 1955—

Message from Rajya Sabha 6833

COLUMN

niversity Grants Commission Bill—

Time for presentation of Report of Joint Committee extended . . . 6833—34

Business of the House . . . . . 683, 686—63

Hindu Marriage Bill, as passed by Rajya Sabha—

Motion to consider—Not concluded . . . . . 6835—56, 6863—690

Committee on Private Member's Bill and Resolutions—

Twenty-eventh and Twenty-Ninth Reports—Adopted . . 6906—07

Indian Adoption of Children Bill—Introduced . . . 6907

Caste Distinctions Removal Bill—

Motion to consider—Negatived . . . . 6908—21

Chartered Accountants (Amendment) Bill—Withdrawn

Motion to consider . . . . . 6921—46

Code of Criminal Procedure (Amendment) Bill (*Amendment of Section* 435)—

Motion to consider—Not concluded . . . . . 6946—60

No. 53—SATURDAY, 30TH APRIL, 1955—

Papers laid on the Table—

First Report of the Air-India International Corporation 6961

Ministry of Communications Notification No. S.R.O. 589, dated 12-3-55. . 6961

Committee on Absence of Members from Sittings of the House—

Ninth Report—Presented 6961-62

Estimates Committee—

Minutes—Presented 6962

Statement *re* Asian-African Conference held at Bandung . . 6972—74

State Bank of India Bill—

Clauses 2 to 53 and 1 . . . . . 6974—721

Schedules one to four

Motion to pass, as amended—Adopted . . . . 7218—36

Government Premises (Eviction) Amendment Bill—

Time for presentation of Report of Select Committee—Extended . . 7237—38

No. 54—MONDAY, 2ND MAY, 1955—

Motion for adjournment—

Labour situation in Kanpur . . 7239—41

Presidents' assent to Bills . . . 7241

Message from Rajya Sabha . . 7242

Papers laid on the Table—

Balance sheets and Audit Reports etc. of Delhi Road Transport Authority, 1953-54. 7242

Revised Estimates, 1954-55 and Budget Estimates, 1955-56 of Delhi State Electricity Board. 7243

Committee on Petitions—

Fifth Report—Presented 7243

Leave of Absence 7243

Calling Attention to matter of Urgent Public Importance—

Use of Hindi in U. P. S. C. Examinations. . . . . 7244—46

Citizenship Bill—introduced 7246

Indian Tariff (Amendment) Bill—Introduced . . 7246

Hindu Marriage Bill, as passed by Rajya Sabha—

Motion to consider—Adopted . . . . 7246—7379, 7379—7439

COLUI

Companies Bill—
Report of Joint Committee—presented 7379
Business of the House . . . . . 7439-40 L.

No. 55—TUESDAY, 3RD MAY, 1955—

Papers Laid on the Table—
Public Debt (Compensation Bonds) Rules, 1954 7441
Public Debt (Annuity Certificates) Rules, 1954 7441
Ministry of Finance Notification dated 3-5-55 *re* reductions in import Duties on Cotton textiles . . . . . .
Committee or Subordinate Legislation—
Third Report—Presented 7441-42
Election to Committees—
Indian Central Arecanut Committee 7442
All India Council for Technical Education 7446-47
Statement *re* Reductions in import duties on cotton textiles from U. K. . . 7442—43
Calling attention to matter of Urgent Public Importance—
Allegations against Working of the Kosi Project. . . . 7443—46
Hindu Marriage Bill—
Consideration of clauses—Not concluded . . . . . 7447—765
Clauses 2 to 12 . . . . . 7449—765

No. 56—WEDNESDAY, 4TH MAY, 1955—

Motions for adjournment—
Deportation of certain satyagrahis by Portuguese Authorities . 7657—61
Labour situation in Kanpur . . . . . 7661—65
Papers laid on the Table—
Review of General Agreement on Tariffs and Trade 7665
Statements showing action taken by Government on assurances etc. . . 7665—67
Annual Report of Commissioner of Scheduled Castes and Scheduled Tribes for period ended 31st December, 1954 7667
Evidence on Companies Bill. 7785
Messages from Rajya Sabha. . . . . 7667—70
Code of Criminal Procedure (Amendment) Bill—
Laid on the Table as returned by Rajya Sabha with amendments . . . 7670
Hindu Marriage Bill, as passed by Rajya Sabha—
Consideration of clauses—Not concluded. . . . . 7670—7785, 7785—791
Clauses 9 to 12 . . . . . 7670—733
Clauses 13 to 18 . . . . . 7690—7785, 7785—[illegible]
Clauses 19 to 23 . . . . . 7833—65
Clauses 24 to 28 . . . . . 7865—79

No. 57—THURSDAY, 5TH MAY, 1955—

Calling attention to matter of Urgent Public Importance—
Appointment of a Commission on Hindi . . . . . 7911—13
Message from Rajya Sabha—
Committee on Assurances— 7913
Second Report—Presented 7913
Correction of answer to Starred Question No. 2435 . . . 7913
Hindu Marriage Bill—
Consideration of clauses—Concluded . . . . . 7913—54
Clauses 24 to 30 and 1 . . . . . 7913—54
Motion to pass—Adopted . . . . . 7954—

	Columns
Hindu Succession Bill—	
Motion *re* Joint Committee—Not concluded	8006—8110
58—SATURDAY, 7TH MAY, 1955—	
Papers laid on the Table—	
Replies to Memoranda of Members *re.* Demands for Grants, 1955-56—Railways	8111
Memoranda *re.* points raised during Budget Debate on Irrigation and Power Projects	8111
Statement *re.* progress of action taken on irregularities in Hirakud Project	8111-12
Correction of answer to Starred Question No. 1750	8112-13
Statement *re.* Textile Mills in Pondicherry	8113—15
Calling attention to matter of Urgent Public Importance—	
Unemployment in Central Excise Department	8211—17
Representation of the People (Amendment) Bill—Withdrawn	8117—19
Code of Civil Procedure (Amendment) Bill—Introduced	8112
Indian Coinage (Amendment) Bill—Introduced	8119
Land Customs (Amendment) Bill—Introduced	8120
Business of the House—	
Report of Commissioner for Scheduled Castes and Scheduled Tribes	8120-21
Hindu Succession Bill—	
Motion *re.* Joint Committee—Not concluded.	8121—8279
Death of Shri Chinaria	8279-80

LOK SABHA

Friday, 29th April, 1955

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

11-27 A.M.

MESSAGE FROM RAJYA SABHA

Secretary: Sir, I have to report the following message received from the Secretary of Rajya Sabha:

"In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 28th April, 1955, agreed without any amendment to the Sea Customs (Amendment) Bill, 1955, which was passed by the Lok Sabha at its sitting held on the 18th April, 1955."

UNIVERSITY GRANTS COMMISSION BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF JOINT COMMITTEE

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): With your permission, Sir, on behalf of Shri Gadgil, I beg to move:

"That the time appointed for the presentation of the Report of the Joint Committee on the Bill to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission, be extended upto the 30th July, 1955."

Shri T. B. Vittal Rao (Khammam): What are the grounds for the request for extension of time?

Dr. M. M. Das: I may submit that the Committee was appointed on 22nd March, 1955. The report of the Committee was asked for by the 30th April, 1955. The total number of sittings held so far is four. It has not been possible for the Committee to finish their business by this time because of the facts that so many important things were being discussed in the House and the Members wanted to take part in the very important Bills and also in the Budget discussion, etc. So it was not possible for the Committee to finish their business. So, on behalf of the Chairman of the Committee, I beg the House to give an extension of time.

Mr. Speaker: The question is:

"That the time appointed for the presentation of the Report of the Joint Committee on the Bill to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission, be extended up to the 30th July, 1955".

The motion was adopted.

BUSINESS OF THE HOUSE

Mr. Speaker: The House will now proceed with the Hindu Marriage Bill.

Dr. Rama Rao (Kakinada): Before this business is taken up, may I just raise one point. Any information about the extension of the Session may be given now, because, yesterday there was a talk about the extension of the Session. I would like to know if there is going to be any extension, and if so, up to what date. We have made some arrangements, and this sort of postponing and extending causes difficulty.

Mr. Speaker: I quite appreciate the difficulties to which Members are put, including the Chair as a Member of Parliament. I am myself very keen that we should have a definite specific programme of dates on which the Session begins and also the date on which it ends. Unfortunately, we have not been able to adjust to the new conditions. And a lot of legislation is coming before the House. Members themselves want more time. Members are also urging that this piece of legislation should be taken and that piece of legislation should be taken, and so on. So, it becomes a little loose.

But I trust that the hon. Minister of Parliamentary Affairs, when he is present in the House, will make a statement as promised by him yesterday. Of course, today he perhaps anticipated that the Question Hour would go up to 12 noon, but we have finished the business more quickly, So, the question may be raised when he comes here.

HINDU MARRIAGE BILL—*Contd.*

Shri N. C. Chatterjee (Hooghly): The other day when we met to discuss this matter, I was making my submission to the hon. Minister and the Members of this Parliament that in a social legislation of this revolutionary character, if we are to be consistent with the tenets of democracy, we should have a definite mandate from the people before we enact such a legislation of far-reaching consequences, making very radical alterations in the Hindu social organisation. I maintain that the way that you are proceeding is not in conformity with the principles of democratic Government. Such a radical legislation should easily wait for a year or so, because the elections are again coming, and it is quite clear that never did the Party in Power or in office have the mandate of the nation on this subject. I would therefore ask them seriously to consider that these votaries of democracy should act according to genuine principles of democracy, and they should make this an issue in the next elections. If the Party in power gets the mandate, then it will be justified in proceeding with a measure of this character.

An Hon. Member: It has been a part of the election manifesto.

Shri N. C. Chatterjee: You, Sir, and all sections of the House, know that there is considerable feeling over this measure. A considerable section of our people is opposed to this measure, especially because its provisions are repugnant to the fundamental principles of the Hindu social system. Before you introduce this kind of a thing simply because you have a big majority or a sledge-hammer majority, it is only fair and right to place this measure before the nation, educate our real masters, that is, the electors, get their definite verdict, and then proceed with this measure.

I am making four points today for the consideration of my hon colleagues in this House. My first point is this. Is this kind of a communal legislation not repugnant to the spirit of our Constitution? Is it consistent with the Directive Principles which we have definitely and consciously embodied in our organic law, *i.e.* the Constitution of the Indian Republic? Article 44 in Part IV of the Constitution clearly says:

> "The State shall endeavour to secure for the citizens a uniform

civil code throughout the territory of India."

My first question is: Are you not defying this mandate of the Constitution-makers? Are you securing a uniform civil code throughout the territory of India?

The cardinal principle on which our Constitution-makers worked was that there should be not diverse civil codes, not one law or one communal legislation for Hindus, another piece of communal legislation for Muslims, another piece of legislation for Christians and so on, but the Constitution-makers enjoined, and it is an injunction binding on Parliament, that this Parliament should secure for the citizens of India a uniform civil code throughout the territory of India. May I know why you are not acting according to the principles solemnly embodied in article 44?

The Prime Minister has been good enough to remind us from time to time that the Directive Principles are of very great importance; they are not mere maxims to be kept in this Part IV without any meaning. He drew our attention to the opening article 37 in Part IV when we were discussing the Constitution (Fourth Amendment) Bill the other day. He was emphasising the supreme importance of the Directive Principles. He said that the Fundamental Rights are there, but if the working of the Fundamental Rights comes into conflict with the clear Directive Principles then the Constitution should be amended and the Directive Principles must be given due recognition.

Now, are you giving due recognition to the clear Directive Principle in article 44? What was the point in enacting article 44? The point was that you shall not have diversity of personal laws for diverse communities in this country. You do declare, you proclaim, and you take some pride in proclaiming that this is a secular State, and that you have got a secular Constitution. If you think that you are really a secular State, and that you believe in a secular Constitution, that you believe in the solemn injunctions definitely and conciously embodied herein, then why do you go counter to that Directive Principle? Why do you have a Hindu marriage law or a Hindu Divorce Bill? This is not in accordance with the spirit of it.

I know it may be pointed out that this is not a justiciable matter. I do maintain that when by article 37 you have said that the Directive Principles embodied in this Part are fundamental in the governance of the country and that it shall be the duty of the State to apply those principles in making its laws, then that means that whenever Parliament will make any law, Parliament must remember that in framing laws it must give effect to those fundamental principles. And these fundamental principles are fundamental in the governance of the country. Why are you departing from those principles? Why do you not have one common law for all citizens, if you think that is the proper thing to do?

I point out that there is considerable force in this argument, and it is not right, unless very cogent arguments are brought forward, to make a departure from, or to run counter to the clear directive in our Constitution.

The second point I am making is that this is not consistent with the Fundamental Rights which you have given in the Constitution. Are you not really defying the guaranteed freedom of equality? Are you not going against it? I find that Shri Indra Vidyavachaspati—we know he is the son of the late Swami Shradhanandaji—has pointed out in his Minute of Dissent that this Bill is contrary to the Fundamental Rights laid down in the Constitution of India, because it discriminates by law against a community or a particular religion. What right have you to enact such a law? What right have you to say that monogamy must be made compulsory for all Hindus, for all Hindu men and for all Hindu women? If you honestly

[Shri N. C. Chatterjee]

feel that this is a blessing and polygamy is a curse, then why not rescue our Muslim sisters from that curse and from that plight? What right have you to enact that this shall be made compulsory only for one community and not for others? That is what Shri Indra Vidyavachaspati has pointed out. If you believe that this monogamy is a benefit and polygamy is a curse, then not only the Hindu women but the Muslim women also should be saved from it.

You have not got the courage to be logical and to be consistent. You pay lip homage to the Constitution. When it comes to actual practice, you fall short of your declared standards, and you are going against the Constitution. I do maintain that this is not right. This is certainly something by which you are enforcing inequality by your sledge-hammer majority. You are defying your Fundamental Rights. You are going contrary to your fundamental declaration of equality, equality not for one community or for the members of one community, but equality for all the citizens of the Indian Republic, for all those who swear allegiance to it. What business have you to defy that doctrine of equality? You say that everyone in this Republic of India, every citizen in this country, shall be guaranteed equality before law. Are you guaranteeing equal treatment and equal protection? Are you not having different marriage ages, different standards, different yardsticks, different divorce laws, different norms, and so on? Is that fair? It is no good looking at it from a purely legalistic point of view. You have got to appreciate the spirit of our Constitution. You have got to pay real homage to the spirit of the Constitution. That spirit you are not observing. That spirit you are defying and I do agree with Shri Indra Vidyavachaspati that it is not right.

Thirdly, Sir I am maintaining that the *raison d' etre* of this Bill has to a large extent disappeared and there is absolutely no necessity unless you want to satisfy some emotional people who indulge in language of denunciation and take particular pleasure in condemning the Hindu marriage system or in deriding it in language which degrades this Parliament and degrades also our nation. I think you should drive them out. Now, you have—rightly or wrongly, that is the decision of the Parliament—on the statute book an Act. You have passed a piece of legislation known as the Special Marriage Act. There you have put down that it shall be operative not only on the people who had registered their marriages under the Special Marriage Act of 1872, but you have deliberately extended the provision of that Act to Hindus who married according to the sacramental rites. It has even been given retrospective effect to cover people who married according to the strict orthodox Hindu rites some 20, 25 or 30 years back who have got children and whose children have also married under the sacramental form of marriage according to strict Hindu notions. They can also avail of the Special Marriage Act and get divorce under suitable circumstances under prescribed conditions. Then, Sir, may I ask of the Prime Minister and the hon. Minister to tell this Parliament and tell the country, what is the necessity of having the provision of divorce here? I pleaded that that should not be done in the Special Marriage Bill. But anyhow that has been done. I am now pointing out that when you have done it; when you have made retrospective the applicability of the provisions of the Special Marriage Act and thereby under certain conditions you have made provisions for treating sacramental marriage as civil contracts, dissoluble, violable and terminable under certain circumstances by the will of parties and added to that the *imprimatur* of the court, then why for heaven's sake have again the provision of divorce and tamper with sacramental marriages and wound the feelings, sentiments and religious susceptibilities of millions and millions of people in this

country? What is the point in doing it? I will not use the lauguage which was used on the floor of the House which I deeply deplore, making all allowances for hysteria and neurosis and that kind of thing coming from ladies. I do maintain that if any man or woman, or any gentleman or lady who wants to have divorce because of certain cogent grounds they can easily do so under the Special Marriage Act. Then why for heaven's sake are you again introducing this kind of thing? Why duplicate? What is the point of duplicating? Even I am prepared to go further. I am going to make a suggestion that has been made by a gentleman of great position, of great erudition, who is not a partisan and who is not a member of any political party—Shri Pataskar knows him—Professor Deshpande. He is a professor of Hindu jurisprudence in the University of Banares, a man whose contributions on this subject are appreciated by every thoughtful person. He has made a suggestion that if any lady or any gentleman points out any lacuna in the Special Marriage Act and if any lady thinks that having regard to the circumstances of our country, having regard to the economic backwardness of our country, having regard to the poverty or having regard to the disability of our women under present conditions, she should have recourse to the Special Marriage Act by unilateral declaration, then we are prepared to consider the conditions under which that can be done. Therefore, all restrictions can be removed and all the reasonable safeguards can be imposed. You know, Sir, under the Special Marriage Act, for both the Hindu wife and the Hindu husband if they find that they cannot live together, there are certain conditions which justify termination or divorce or dissolution of the marriage. They can approach the court and do that. But, if you feel that in some cases, extreme cases, difficult cases or some marginal cases a Hindu wife should be given unilateral right without any bilateral agreement, to have the marriage registered and to get the benefit of the Special Marriage Act, then that matter can be discussed and Prof. Deshpande, the professor of Jurisprudence, has prepared a note on it and has circulated it. Some Members of this Parliament must also have read it. He is a great writer. I am sorry the other day Shri Pataskar was ridiculing some of his contributions on the subject. This is not a matter for ridicule. I have great respect for Shri Pataskar. I am sorry that he is taking a partisan view and ridiculing a person of unimpeachable character, great erudition and the highest integrity. He should not have used that language. He was alleging that this Prof. Deshpande had been acting as Miss Mayo, trying to find out filth and publish a drain inspector's report.

The Minister in the Ministry of Law (Shri Pataskar): I did not refer to his books. The book I referred to was *Memorandum on Sexual Life*. I do not think he wrote it.

Shri N. C. Chatterjee: *Memorandum on Sexual Life* is written by Prof. Deshpande. He should have known the author before he started ridiculing him. Anyhow it is the ministerial prerogative to ridicule people. I do not blame him for that.

What I am saying is this. He is pointing out that in western countries, they are themselves tired of the disruption of the family life. They are conscious of the positive danger of the disruption of society because of the rise in tempo of divorces in those countries. They are trying to tighten it up and we are now going to put the hand of the clock back by simply trying to imitate those countries. In England, you know, 30 out of even hundred go to divorce courts and in America which is more progressive, there it has gone up to 50 per cent. Now, they are finding that this is a thing which should be stopped and it is no glory for any civilization, country or society. The author has quoted Judge Lindsay. Now, do not ridicule Judge Lindsay. He was not a petty fogging lawyer of ordinary standing. But, he was a great thinker and a social worker. He h[illegible]

[Shri N. C. Chatterjee]

minister matrimonial law in one of the biggest States and his contribution on this subject has been appreciated deeply by all sensible people and by men interested in the development of marital relations on true lines. He has not quoted only Judge Lindsay. He has quoted different authors from different countries and pointed out the steady degradation of the so-called progressing civilization due to rising tempo of divorce and easy dissolution of the marital tie.

Fourthly, I want to make one point and that point is this. It is, I am sorry to say, completely misleading the country when a responsible Minister says that Hindu marriage has never been considered sacramental according to Hindu *Dharma Shastra*.

Shri Raghunath Singh (Banaras Distt.—Central): Who says?

Shri N. C. Chatterjee: Then, I am sorry you have not done the courtesy of reading Shri Pataskar's speech. Shri Pataskar, standing on the floor of this House of Parliament of the Republic of India declared: "It is not true that our ancient law-givers ever regarded marriage as indissoluble or marriage as sacramental". I am shocked.

Shri Pataskar: Yes.

Shri N. C. Chatterjee: If Shri Pataskar had sat for a Hindu Law examination in any University he would have been ploughed and he would have got zero. I do not know what basis there is for that statement.

Shri Pataskar: You can refute it by references.

Shri N. C. Chatterjee: I am shocked to know that a Minister of Law in the Republic of India is saying this that it was not sacramental and the Hindu law-givers never thought it was sacramental.

Sir, the greatest authority in this about which I want to say—I am reading Mayne's *Hindu* —has said this. His first sentence on this important subject is:

> "Marriage is one of the necessary *sanskaras* or religious rites for all Hindus whatever be the caste, who do not desire to adopt the life of perpetual Brahmachari or of a *Sanyasi*."

Shri Pataskar: *Sanskara* is not the same thing as sacramental form of marriage.

Shri N. C. Chatterjee: This is a thing which he ought not have said. I am not saying this because Mayne has said it. You know Mayne's book is treated as authority on the subject. But, this book was edited by one of the greatest Hindu jurists of modern India, Mr. Srinivasa Iyengar, who was President of the Indian National Congress, also Advocate-General of Madras and who was one of the recognised leading lawyers in the country. This edition which I am reading —11th Edition—was edited by Mr. Justice Chandrasekhara Iyer who was Judge of the Supreme Court of India and who is recognised as one of the leading jurists in this branch of the law.

You know, Sir, and every lawyer who has anything to do with Hindu Law knows that the greatest authority on this branch of law is Sir Gooroodas Banerjee, who was a Judge of the Calcutta High Court. But Mr. Pataskar says that the *sanskara* theory of marriage has been manufactured by European lawyers and by European Judges. Nothing of the kind. I am reading to you from the Tagore Law Lectures of Justice Gooroodas Banerjee on *The Hindu Law of Marriage and Stridhana*, page 31. The heading of the paragraph is "Marriage in Hindu law a sacrament". When he is saying that he is not thinking of any obsession derived from European Judges or jurists. He is one of the greatest Sanskritists in this country in modern times. This is what he says:

> *"Marriage in Hindu law a sacrament.*—The importance of the institution of marriage is too well

recognized to require any comment. It is the source of every domestic comfort from infancy to old age; it is necessary for the preservation and the well-being of our species; it awakens and develops the best feelings of our nature; it is the source of important legal rights and obligations; and, in its higher forms, it has tended to raise the weaker half of the human race from a state of humiliating servitude. To the Hindu, the importance of marriage is heightened by the sanctions of religion. In Hindu law it is regarded as one of the ten *sanskars*, or sacraments...."

If Mr. Pataskar has ever read or would care to read Sir Gooroodas Banerjee he would give up his opinion. Dr. Banerjee says "It is regarded as one of the ten *sanskars*, or sacraments, necessary for regeneration of men of the twice-born classes, and the only sacrament for women and *Sudras*".

Mr. Pataskar has gone further and said: "I do not know what basis there is for that view. At the most, it can be said Manu Smriti does not lay down any procedure for divorce. To that extent I am prepared to go". Fortunately Manu and Yajnavalkya were not buried; otherwise they would have turned in their graves at this utterance of the modern Yajnavalkya. Dr. Ambedkar was the modern Manu and Mr. Pataskar is the modern Yajnavalkya. And he has declared that sacrament is of recent origin. I am sorry, I have respect for him, I do not know whether he married according to sacramental rites but if he did and his memory serves him right.....

Shri Pataskar: May I appeal to the hon. Member with all his passions that what I have been saying was, there are *sanskaras*—my knowledge may not be so vast as his—but *sanskaras* and sacrament do not, according to me, mean the same thing.

Pandit K. C. Sharma (Meerut Distt. —South): They do not mean the same thing.

Shri N. C. Chatterjee: The Vedict *slokas* have to be uttered by every Hindu at the time of *panigrahan*:

गृह्णामि ते सौभगत्वाय हस्तम्
मया पत्या जरदष्टिर्यथा सः
भगो अर्यमा सविता पुरन्धिः
मह्यं त्वादुर्गार्हपत्याय देवाः ॥
Rg. X, 85. 36.

I will give the translation. The translation of this *sloka* given by Mahamahopadhyay Kane who is the greatest authority on this branch of the law, is in that remarkable book *History of Dharmasastra*, Vol. II page 526:

> "I take thy hand for prosperity (or love) so that you may grow to old age with me, thy husband; the gods, Bhaga, Aryaman, Savita, the wise Pusan, have given thee to me for performing the duties of a householder."

There is one book written fortunately not by a lawyer but by a sociologist of great eminence, by Dr. Pandhari Nath Prabhu, Fellow of the Society for Psychology in the United States of America and Professor in the Tata Institute of Social Sciences, Bombay. He is also saying it is a *sanskara* and it has been in vogue from the Rig Veda, not of recent vogue according to the recent theory of Mr. Pataskar. And what is the translation he gives? That you must recite the vedic *mantra* when you perform *panigrahan*.

> "I take thy hand in mine,
> Yearning for happiness;
> I ask thee,
> To live with me
> As thy husband,
> Till both of us,
> With age, grow old.
> Know this,
> As I declare,
> That the Gods
> Bhaga, Aryama,
> Savita and Purandhi
> Have bestowed thy person
> Upon me,
> That I may fulfil
> My Dharmas of the householder
> With thee."

[Shri N. C. Chatterjee]

I shall read only one sentence from Mahamahopadhyay Kane's book. I do not know if anybody has stolen it—thank God, I have got it. The first sentence in Mahamahopadhyay Kane's celebrated book on Dharmasastra is this. You know, Sir, he has received a very big distinction, one of the awards from the President. And his first sentence in that book is this, that this is a *sanskara*. And this is recognised as a *sanskara* by all the *dharma sastras*, by all the *shrutikaras*, and by all the sages Gautama, Bandhayana, Apastamba, Vasishta, Manu and Yajnavalkya. Each one has said it is not of recent origin—unless my friend Mr. Pataskar was a class-fellow of Yajnavalkya or Manu. In the *Dasama Mandala* of the Rig Veda, in the Tenth Mandal you will find it, Rich 36, Sukta 85. From that day it has been there. I do not know what made my friend say that.

You know even in the latest edition of Mulla's *Hindu Law* which has been edited by the present Chief Justice of India who is one of the greatest jurists in this branch of law, that is Hindu Law, the first thing he has said is this. The latest edition is by Mr. Justice Bijan Kumar Mukerjee who is now the Chief Justice of India, and the first thing he has said is that this is a sacrament. I am reading the first sentence:

"Marriage, according to Hindu law, is a holy union for the performance of religious duties. It is not a contract". And he emphasises it by certain citations. I am pointing out that give up this notion that it was not a sacrament. If there was any sacrament it was this Hindu marriage, and for women this was the only sacrament. And it was the sacrament which was meant for the upliftment of human personality. Hindu marriage is not a contract. There is nothing to be ashamed of it, everything to be proud of it. You ought to be bold and declare that for thousands and thousands of years we have kept alive one virtue, one ideal, one standard.

12 NOON

Dr. Radhakrishnan has praised this concept in his *Kamala Lectures* in the Calcutta University. He has said that whatever you may say, compared to any other country he knows England and America and other countries much better than many of us here—he has said that this doctrine of eternal fellowship is the cardinal principle of the Hindu sacramental marriage. This is perpetual fellowship not for material gains, not for secular gains, not for carnal pleasure, not for lust, not for selfish things but for faithful fellowship, for integration of the family, for the development of society and for the development of the State. That is what Dr. Radhakrishnan has said. He has said that it is the greatest thing which you ought to remember. I do not for one moment claim to be so egotistical as to declare that my system is perfect or that in my social organisation there is absolutely no flaw. But, I do maintain, Sir, with all the emphasis I can command, that, compared to other systems of law and other personal laws, this Hindu system of marriage gives a higher family life, a nobler ideal of womanhood than any other country in the world has been able to achieve and has been able to sustain.

[MR. BARMAN *in the Chair*]

I want to read with your permission, Sir only one portion of Dr. Radhakrishnan's book. He is saying that marriage is not a mere contract. I am reading from his *Kamala Lectures* delivered at the Calcutta University.

> "Marriage is not a mere contract; it is a part of the life of the soul. Risk and hardship are part of human life, and we must be prepared to face both. We must meet as human beings and companions full of faults, weaknesses and desires common to both; and adjustment is a long process. In the Catholic Church, the parties contracting marriage receive the Cross and Sword on their heads

bent towards each other, the one as the symbol of their tragic courageous trust in a higher order than the human, the other as the symbol of the unfailing wrath for every infraction of the law of the Cross. In the faith that love is the sign and pledge of the loveableness of the ultimate ground from which all things arise, the sacramental view requires us to face risks, and not to admit defeat in the great enterprise."

Dr. Radhakrishnan was the Professor of the Calcutta University and also Spalding Professor at Oxford.

I am asking Mr. Pataskar and all those who think with him to take this particular view of life and not to admit defeat in the great enterprise. We enter into marriage relationship for the development of the individual and for the enrichment of our lives. Without it there is no happiness for the individual or society. Dr. Radhakrishnan is pointing out that:

"This traditional view has still a strong hold on Indians, among whom stable marriages are more numerous, and family affections much stronger, than perhaps in any other country."

Sir, I think that is the honest verdict of a great thinker and philosopher. He is not the man to applaud his own nation or his own country just for the sake of applauding. Although it is now the fashion of the day to decry our marriage system and indulge in language of unfortunate denunciation and declamation unworthy of this great country and her culture and civilisation, still it will be saying nothing improper or unhistorical if we say that whatever you may say, among our nation stable marriages are more numerous than in any other country and family affections much stronger than in any other country.

Sister Nivedita, you know, Sir, was a disciple of the great Vivekananda. She was an Irish lady but she came out to India and lived in Calcutta and Bengal and other parts of India and spent and consecrated all her life to India for the sake of our people and for the women folk. She said that we should be careful not to disrupt our institutions and not to disrupt our ways of life. Sister Nivedita said, when all is said and done, from the standpoint of purity, the highest embodiment of purity is the Indian woman, the Hindu woman. I am quoting Sister Nivedita:

"The so-called tyrannised and tortured Hindu woman is as near perfection as any human being can be."

That is the verdict of a European woman. The fling is there. She says, 'the so-called tyrannised and tortured Hindu woman'.

We come to Parliament, we fight here with the Speaker, I go to the Supreme Court; I fight even with the Judges of the Supreme Court; but when we go home, we know where we are. This is what Sister Nivedita says:

"The so-called tyrannised and tortured Hindu woman is as near perfection as any human being can be. Once a wife, always a wife, even though the bond be shared with or remain always only a name. That other men should be only as shadows to her, that her feet should be ready at all times to go forth on any path, even that of death, as the companion of her husband, those things constitute the purity of wife in India. Purity in everyone of its forms is the central pursuit of Indian life."

This central purity of Hindu life, this great standard of purity, I do maintain, has been, to a large extent made possible by our sacramental system of marriage. It is that marriage which has given that unique fellowship; do not try to disrupt it.

I am very sorry that my friend Shri Pataskar has used language of derision against one of our greatest countrymen and has cast aspersions unworthy of him against one of our greatest jurists in India today. He has castigated Dr. Radha Binod Pal.

[Shri N. C. Chatterjee]

After all, who is Dr. Radha Binod Pal? Dr. Radha Binod Pal has placed India on the map of the world. Our Prime Minister is placing India on the international map due to his great efforts in the international sphere. But, there is one man who has put India on the juridical map of the world and given her a place of great distinction and honour as a Judge of the International Tribunal which tried Marshal Tojo at Tokyo. The Minister of State or the Minister of State for law forgot the decencies of life when he actually stood up and said that the conveners of the Convention which met here on the Hindu Code Bill compelled him to utter certain things. His language is this. I marked that language. There is neither wit nor humour in it but it is very crude, and this is what he said:

> "In a democratic age, because a few members in the minority do not find things that are being done by the majority agreeable to them, they should make a very eminent jurist to come and sit down and make his say such a thing is not proper."

This is an insinuation which is thoroughly unfair and thoroughly unworthy of him and it is not true. I know it is not true. I was one of the conveners of the Convention. I can assure Mr. Pataskar and men of his thinking that Dr. Radha Binod Pal is not the man to be dictated to by any minority, however vocal it may be. He is not the man to be dictated. I honestly say that I never saw that speech until it was printed and he never consulted any one of the conveners of the Convention. He is not the man to be dictated to by any one. He was not only one of the greatest lawyers and advocates of the Calcutta High Court but he was also a very eminent Judge. Mr. C. C. Biswas, the Law Minister, if he were here, would have paid his tribute to his character, to his integrity and to his complete independence. He is not the man to be cowed down. What has he said? What improper things has he said? He has pointed out that you should be particularly careful, before you, in a precipitate manner try to violate the old traditions and traditional systems. He has said nothing improper. He is right. Shri Pataskar reads it as a language of threat. It is not a language of threat. It is a warning; it is an appeal; it is an admonition; it is an appeal, admonition, caution all combined. That is the fact. Why do you take it as a language of threat? I am bold to declare that we are unfit to unlace the shoes of that great jurist. If he had been in the International Court at the Hague, he would have again placed India on the map of the world. I know, you know, everybody knows, everybody who has anything to do with law knows, everybody who is a votary of Themis knows that Dr. Radha Binod Pal's services have been requisitioned by the League of Nations, and international organisations. He is going to Geneva as a representative of this country, I take it, to draft the International Law Code for the whole world. That is a great honour. To say that a man of that character, a man of that experience, a man of that standing, a man of that eminence would be dictated to by a few people who are in the minority in a Parliament, is a preposterous suggestion unworthy of Shri Pataskar. I am sorry to say this, he should not have said so.

What has Dr. Pal said? He has simply pointed out:

> "Our legislators would do well to remember that the instruments they are now trying to use may be the creature of their desires."

Then he says:

> "I am warning you that the instruments they are now trying to use may be the creatures of their desires, but they will evoke, modify and deflect people's

desires in turn and in course of time will take complete revenge upon us all."

I may tell you that a very thoughtful writer has made a patient study and research into the working of the monogamy laws in the States of Madras and Bombay. Do you know what the experience has been? The experience has been.....

An Hon. Member: Monogamy laws?

Shri N. C. Chatterjee: Yes; Prevention of Bigamy Acts. The experience has been that it has not been really beneficial for women. It has been beneficial for men. It has been beneficial in the sense that they have a handy charter for discarding their wives, for getting newer, fresher, lovable, agreeable companions at an advanced stage of life. That has been unfortunate. I can give Shri Pataskar or any Member of this House data, facts, statistics collected as a result of great research and industry and study of the working of these particular measures in the different States. Don't think that they have been very beneficial. Women have been really placed at a greater disadvantage. They have proved to be convenient handles for men to get rid of their old wives. I am therefore saying that these points may be carefully considered.

Why go against the directive principles; why trespass upon those doctrines of equality and go against fundamental rights? Why not frame, if you have got the courage and wisdom to do it, one uniform civil Code? You proclaim from the house tops that there shall be no communal legislation. Why are you then proceeding with communal legislation? There are secular countries which have divorced personal law from religion. That is the ideal which we have also embodied. Why not act up to that ideal? You know that the Muslim community does not like interference with its personal laws. That is why you are really violating the clear directives of our Constitutions. That is what you should not do. If you are logical, if you have courage, if you have wisdom, you must implement that directive principle. I am pointing out that your so-called monogamy may be a legalisation of poligamy in other shapes and other forms. It really comes to one husband at one time or one husband and one wife at a time. By this kind of periodical marriages and changes, you can have plurality. That is not the way of real monogamy.

I am sorry to say that Shri Pataskar quoted one verse from Manu's Manava Dharma Sastra in some part of his wonderful thesis. The verse is:—I think he read out from Chapter 9, (verse No. 46):

न निष्क्रयविसर्गाभ्यां भर्तुर्भार्या विमुच्यते ।
एवं धर्मं विजानीमः प्राक् प्रजापतिनिर्मितम् ॥

This does not support Shri Pataskar's great thesis; this goes against his thesis. It says that there shall be no dissolution of the marital tie. If you try to desert your wife, if you sell your wife, even then, the marital bond can never be disrupted. Shri Pataskar does not need any commentator. He is his own commentator. He is the 20th Century commentator of Manu. He says that this verse shows that you could desert your wife and there was no necessity for a formal divorce. On the other hand, the verse says that under no circumstances is the marital bond broken. Manu was thinking of the great example of Shri Ramachandra. Manu was not thinking of fashionable people walking along the boulewards, going to Connaught Circus in the evenings. He was thinking of the noble type of people, Shri Ramachandra deserting Sita or Shri Harischandra being compelled to sell himself and his family including his wife. Even in these cases, Manu says that the marital tie was never to be disintegrated. Under any conditions it was inviolable.

एवं धर्मं विजानीमः प्राक् प्रजापतिनिर्मितम्

[Shri N. C. Chatterjee]

This is the law which I know, which Manu knows,—but, Shri Pataskar does not know,—created by the maker of the universe from ancient times. May I make a present of this to Shri Pataskar? He has not read it.

Shri Pataskar: I have read and reread it carefully. It need not be presented to me.

Shri N. C. Chatterjee: May I point out one more *sloka*, a last gift in all humility to Shri Pataskar?

वैवाहिको विधिः स्त्रीणां संस्कारो वैदिकः स्मृतः।
पतिसेवा गुरौ वासो गृहार्थोऽग्निपरिक्रिया॥

Manu himself says that vedic marriage is a *sanskara*. That is a solemn injunction. It is an inviolable union, an indissoluble union; it is an interminable union; it is an eternal fellowship; it is a perpetual union. It is said that once you marry, it is a *sanskara* and it is a sacrament. In all humility I say, whatever you think of monogamy, I appeal to all sections of the House, don't tamper with the Hindu sacramental marriage and introduce divorce into it. I am pointing out in all humility, but with all earnestness that having regard to the law which we have already passed, there is absolutely no necessity for this. If anybody wants divorce, he or she can have it. While you are keeping the sacramental form, for heaven's sake, do not introduce this divorce here. There is absolutely no necessity for this. I am therefore submitting that this will be undemocratic, this will be unconstitutional, this will be repugnant,....

Some Hon. Members: Why undemocratic?

Shri N. C. Chatterjee: You provoke me to start once again. I am prepared

It is undemocratic because such a radical legislation disrupting the basic factors of Hindu social organisation which is cherished by millions and millions of people under which we have lived not for ages and centuries but for thousands of years should not be passed except by a clear and definite mandate from the people.

Mr. Chairman: May I put in a word? In view of the limitation of our time, there should be no interpellation because in that case the speeches will be longer and other Members who might otherwise have a chance may not have a chance to speak. Let the speaker speak out his own mind.

Shri N. C. Chatterjee: I may conclude by saying that this has been the only vedic sacrament for our ladies; this sacramental system of marriage has given us a standard of life, a way of civilisation, a very pure, much purer and nobler and higher life than has been the fortune of other countries to enjoy. And that is the keynote of our culture and our civilisation. That is why Hindu civilisation has lived, and is still living, and nothing should be done so as to disrupt the basic factors which have kept up our civilisation and our heritage in such a glorious manner.

BUSINESS OF THE HOUSE

Mr. Chairman: The hon. Prime Minister wanted to make a statement.

The Prime Minister and Leader of the House (Shri Jawaharlal Nehru): I wanted to make a statement regarding the time available to this House. But I thought I might make it when the hon. Speaker was present, because there are certain matters requiring his views.

[MR. SPEAKER *in the Chair*]

Sometime back the Business Advisory Committee made an allotment of time. Since then, some changes have been made because of fresh matters which have been taken up. Now, I am very anxious—Government is very anxious—that in addition to the present Bill that is being considered, this House should consider the motion from the Rajya Sabha in regard to

the formation of a Joint Committee for the Hindu Succession Bill before we break up in this Session.

Now, time is limited, and yet I do venture to submit that it is important that we should do that in addition to such other work as we have undertaken to do. I would submit to you and to the House that it is desirable for us to sit earlier and later, both if necessary, so that we might be able to complete that work. We might sit from 10 A.M. to 6 P.M.

Mr. Speaker: I am entirely in the hands of the House. I am agreeable to whatever the House is pleased to do.

Some Hon. Members: Yes.

Shri V. G. Deshpande (Guna): I oppose this suggestion.

Dr. Rama Rao (Kakinada): It is better to prolong the Session for ten days, if necessary, instead of overworking and getting people exhausted. Let us continue the session till the 20th May, if you like. I have no objection. But this constant uncertainty of the session and the constant uncertainty of the subject we have to deal with, is very unfortunate. This overworking is rather unfortunate. If we have to sit from 10 A.M., as the proposal is, and go on till 7 or 8 P.M., I do not think any Member can sit like that and I do not think we will be doing justice to the subjects either.

Shri V. G. Deshpande: My submission is that both these Bills are very important Bills which require very careful consideration of the House, and under such circumstances, sitting from 10 A.M. to 6 P.M. without even breaking for lunch or any other purpose would be rather tyrannical to the House. I must submit that we are prepared to sit even beyond the 6th, that is, 7th, 8th, 9th and 10th. I do not think because all things have to be adjusted according to the view of the majority—they have to attend certain sessions, certain meetings—therfore it cannot go beyond the 6th. I feel that we should not be forced to sit from 10 A.M. to 6 P.M.

Shri R. K. Chaudhuri (Gauhati): At least there should be a recess.

Shri V. G. Deshpande: This is not to be decided by majority.

Shri Damodara Menon (Kozhikode): I am opposed to the extension of the session beyond the 7th.

Shri Jawaharlal Nehru: I was not suggesting extension of the session. I would say that the 7th May be the last date. In fact, the 6th is a holiday being Buddha Jayanti, and we might sit on the 7th also.

Anyhow, it is not a matter for argument. I do not suggest that every Member should sit here from 10 A.M. to 6 P.M. continuously. Normally speaking, in many other Parliaments, they sit for quite as long hours, sometimes even longer hours. It is not an unusual occurrence.

Dr. Rama Rao: If the date is fixed for the 7th, I have no objection to extension of hours.

Mr. Speaker: As the Leader of the House has pointed out, Government do attach importance to this particular measure. The difficulty which I have been feeling is about the quality of the work that we turn out, if the House sits continuously longer. But I have no objection to it, if the House is agreeable. But I do feel that there is bound to be some strain and Members may not be able to apply their mind if they sit continuously for eight or ten hours in the present conditions of the Indian climate. That is my feeling. The difficulty arose because Government came out at a later stage with the State Bank of India Bill and it had to be given precedence. But the priority to the Bills was not settled by the Business Advisory Committee. It only allotted time and then left it to Government to adjust their priorities. So I really do not know what is to be done in this matter because personally, I do not feel like pressing Members to sit continuously for eight or ten hours a day. That is my own feeling, but my own feeling ought not to come in the way of the

[Mr. Speaker]

House taking its decision. It is the feeling of the Members of the House that should count and they may adjust these things themselves. That is what I feel. If necessary, I may suggest that instead of discussing this matter here and taking up time, a few Members may meet and discuss what is possible in a small representative meeting, and then some formula can be evolved. Let that be done; it may be done by tomorrow.

Shri N. C. Chatterjee (Hooghly): The Business Advisory Committee may be called by you and if the Prime Minister can spare a few minutes, we can sit down and do something.

Mr. Speaker: The difficulty is this. The Business Advisory Committee has made certain allotments of time. It does not deal with the question of extending the session or extending the hours. That is left to the Members themselves. We have now, since sometime, decided that we sit from 11 A.M. to 5 P.M. continuously for six hours. That we had to do because we found that the rush of legislation was so great that five hours sitting would not do. So that was why I was suggesting that instead of carrying on this discussion in the House, it would be better if a representative Committee of the House met and discussed this matter so that the differing points of view might be understood. I think that would be better.

Shrimati Sucheta Kripalani (New Delhi): That is better.

Shrimati Renu Chakravarty (Basirhat): I think almost all the lady Members of this House do really desire that that Bill should be sent to a Joint Committee before we finish this session. Therefore, I would urge that though it would mean that we have to work harder, we might sit longer hours in view of this exceptional circumstance. Otherwise, it will be delayed very much.

Mr. Speaker: I do not object to the House sitting even for 24 hours, if it so likes. That is not my point. Just as some lady Members are keen, there are others who feel equally keen. The Chair has to look at any proposition from the point of view of the entire House. I know that feelings are rather high on this question, and therefore, I suggested a way out. If that is not agreeable, let the House have its decision here and now. I have no objection.

Shri R. K. Chaudhuri: What I would say is this. I have no objection to sit longer hours, but I want to have recess during the lunch period. I am making this suggestion because I may be away or some of my friends may be away precisely at a time when the Prime Minister is speaking, but if the Prime Minister will give an undertaking that he will not speak between 1 and 2, then I do not mind.

Shri Jawaharlal Nehru: I would suggest that we might sit from 10 to 6 with half an hour recess.

Shri R. K. Chaudhuri: Make it 6-30 and have one hour recess.

Mr. Speaker: I do not mind, but it is hardly a matter for a Committee to consider—not that I have any objection. It is a very simple proposition. After all, it is not for a long period. It is just for one week—six days—and there are two holidays in between. It is because of the importance of this Bill that we have given more time to it.

Shrimati Sushama Sen (Bhagalpur South): I would suggest that we sit from 8-15 to 1 as we did before, have a break and then again sit in the afternoon.

Mr. Speaker: The real point is to have an effective number of hours every day. If you sit earlier and have a recess of one hour, it makes no difference whether you sit from 11 or 10. So, that is the problem. As some hon. Members will require time in the morning to prepare and to do other work, supposing we start at 10-30 instead of 11, and with the present con-

vention that we have, namely, non-stop work, we go up to 5-30 or 6, that will give us every day 1-1|2 hours more. That will be a compromise.

Shri M. S. Gurupadaswamy (Mysore): This matter was considered by the Business Advisory Committee. We are not passing this measure at all this session. It is only to be sent to a Joint Select Committee and it has to be passed next session. So, I submit that this measure may be taken up first in the next session and may be referred to the Select Committee.

Shri Bansal (Jhajjar-Rewari): No, no.

Mr. Speaker: It is taking up important time of the House in this discussion. I think we should meet at 10-30 —I am suggesting a compromise acceptable to the House—and sit till about 5-30.

Shri Bansal: Six, Sir.

Shri A. M. Thomas (Ernakulam): 5-30.

Mr. Speaker: Shall I say six? There is also a proposal to go up to 6-30. I would suggest from 10-30 to 6 continuous, without break. Of course, the convention stands, namely, that the House will not be counted between 1 and 2-30.

I am suggesting another way if it is acceptable to the Members. When the time allotted is not necessary, there is a feeling that the allotted time must be taken up for discussion. My suggestion is that Members may curtail their remarks, because I find in all debates of this type, there is always a repetition of substance though not of language. We could curtail some more time and finish up the business much earlier.

Shri Lokenath Mishra (Puri): But there is a difficulty for back-benchers. Supposing they have to speak, they shall have to wait from beginning to end. So, there should be some previous allotment of time for them to look to.

Mr. Speaker: The hon. Member cannot have it both ways. They have come here to discharge some duty as elected Members of the country— I do not refer to the salary and allowances they draw. It is their duty to wait if they are keen on discharging their duty in a proper manner. That is not a valid argument. I will not take any more time of the House.

We sit from next Monday. I could start today or tomorrow, but the difficulty is that there is no time to inform the absentee Members. Tomorrow I may not be able to inform the absentee Members. If we sit tomorrow from 11, we continue as long as necessary for finishing the State Bank Bill, so that we start with a clean slate on Monday.

Shri Jawaharlal Nehru: It was my intention, subject to your convenience and the convenience of the House, to make a brief statement tomorrow morning to the House in regard to the Bandung Conference.

Mr. Speaker: If it takes some time, that can be added up to the State Bank Bill and we shall sit till it finishes. We shall take the statement in the beginning. There is no Question Hour tomorrow. But I have a personal difficulty in that respect. Not knowing that the House will be sitting even on Saturday, a conference of Public Accounts Committee Chairman is fixed up tomorrow and I have to be there, but that does not matter if some Chairman will give me the convenience to attend that conference. It has been fixed long before. Still I may come in but leave soon after. Tomorrow we have the statement of the Prime Minister on the Bandung Conference at eleven, and after that statement, we take the State Bank Bill and we sit till we finish it.

Shri Matthen (Thiruvellah): It cannot be rushed through like this.

Shri Gadilingana Gowd (Kurnool): Will 7th May be the last date of sitting?

Mr. Speaker: I think we can take it that the 7th is the last date definitely.

Shri Jawaharlal Nehru: Yes, Sir.

Mr. Speaker: We shall now proceed with the further discussion of the Hindu Marriage Bill.

HINDU MARRIAGE BILL—*Contd.*

Pandit K. C. Sharma: I very attentively listened to the long speech of my friend, Shri Chatterjee and I also consulted the authorities on the Law. My humble submission is that there is no gainsaying the fact that ours is one of the most glorious civilisations and that it has been for a long-cherished period of continuity throughout. But here the story ends. If you go to the Japanese, if you go to the Chinese, or if you go to the Egyptians, they will say "We directly descended from the Sun God, we are the choicest people, we are the most ancient civilized people and others are simply barbarians".

[SHRI BARMAN *in the Chair*]

I would remind you that George III wrote to the Emperor of China that he was sending his Ambassador asking for certain manufactured goods to be sold in China, and the reply was "I the son of God, do not condescend; you cannot have this sort of desire from me". Later on, poor people of China had to eat the opium at cannon's mouth. This sort of play is good to glorify oneself but it does not take us any far. However great satisfaction Hindu culture or civilization could give to you, you cannot escape the fact that it is petrified today. It requires no more proof than Shri N. C. Chatterjee's own statement when he said: I come from an area where Ramakrishna was born, where another great man was born. It is just like *Pidram Sultan Bood*—saying 'my father was a king and I must be respected'. That is the criterion to show that that man remains static and refuses to see the fact. It is a closed mind. It is a deadly state of affairs. If a person glorifies a civilization as coming down from the Sun it is something which is not very creditable in the latter half of the 20th century.

Having said that, I submit further that the criterion of continuous and living culture and the dead petrified culture is different. All the cultures in the world had started with classes; that is one of the stages of life. This Hindu culture was a living culture so far as it confined itself to the classes —to the man who was learned, a Brahmin, the man who was strong and protected the other people, the warrior and others worked in different fields of activity. But the moment you brought it to the fixation of caste—I use the word *fixation* you cannot get beyond a certain stage. It means that culture is petrified and static; it has no life. Therefore to hug to it is hugging to the dead body. There is no use of quoting scriptures and talking from old books.

One word about religion. I beg to submit that marriage institution is a sociological problem and it has very little to do with the religious development. Marriage problem is something which does not go beyond ethical conception. In society, you move about, work well, serve your neighbours and work with cosmic forces working with the people, sociological forces and then you see far beyond the social compass and there the light of divinity comes. It has very little to do how the marriage is performed —whether round the sacred fire, whether with the vedic mantras or whether by touching hands and so on. So long as a man and a woman behave well and do their social duties, religion is not touched because the way of divinity comes after the way among the men has been settled. If you do not play your part among the fellow beings and do not do your duty towards the other beings, then the light to God is dim. You cannot see the light to God until you have moved about in the society and had done the work. Therefore, the religious path or the light of divinity is dim not on account of the marriage performed in this way or that way.

Now, there is this fundamental question. My respectful submission is

that Hindu law, as it stands at present is no law at all. I am reading from Mulla, an accepted authority. Judicial decision is a source of law....

Shri Nand Lal Sharma (Sikar): Is it Mulla?

Shri Pataskar: He is not worse than Mayne.

Pandit K. C. Sharma: Mulla says: "Judicial decisions on Hindu law though sometimes loosely spoken as a source of law are not strictly sources of law. Almost all the important points of Hindu Law are now to be found in the law reports and to this extent it may be said that the decisions on Hindu law had superceded the commentaries. The decisions of the Privy Council are binding on all the courts of British India including the High Courts". Do you think that your sacred law descending from Manu and other *rishis* has to be enunciated and confined by the decision of the Privy Council? Can you depend upon this source as the source of Hindu Law for the administration of justice on Hindu Law? I do not say what should be the law. My humble submission is that if for nothing else, for the pride of being a nation we need a law. I have no quarrel with those who say that there should be no Hindu law whatsoever. Let there be an Indian law. But if there is something like Hindu law, it must be new law and for the convenience of the common people it must be codified. Why should we depend upon authorities written long ago and not understood in the present context of things? Have a codified law, whatever may be the law. The law must be easily understandable; it must meet the needs of the time. It must satisfy the needs of social and economic conditions and the receptivity of the people.

The old law was once good enough. You must understand that when Manu gave you the law, there was what you call 'muscle civilization'. It does not hold in what is called nuclear energy civilization. It was good when for millions of years, the muscle civilization had its sway. By 'muscle' I mean working with hand, with bullocks and animal power. Now that era is past. The whole conception, the way of thinking, etc. had changed. Man has changed. Psychologists say that a man can change in seven years. Don't you change in millions of years? What sort of people you are if you cannot change in millions of years? An ordinary human being can change his entire being within seven years. That is psychology. If people cannot change in millions of years, then I am sorry for the fate of that people. So, this law as it is, is no law; it is now, on the other hand, a bad law. I say, as it is at present it is bad law. I will read only two paras from this book. The first page of this book and of every book on Hindu law, starts like this: 'Hindus are divided into four castes, Brahmins, Kshatriyas, Vaishyas and Shudras....." Do you like this sort of a law in this age? It is outmoded. It has no utility rather it has no sense whatsoever if a law is to divide people into castes and adjudicate that this man is a Shudra and this man is a Brahmin and being a Brahmin he has this right and being a Shudra he has this disability.

Yesterday, you were talking about untouchability. Today you are talking about this law as being a permanent source of your inspiration and a permanent source of adjudicating upon the ways of your life and adjudging many good things of life. How can these two things be adjusted side by side? When you go against untouchability, you said yesterday: 'I hold it is inhuman, it must go'. But when you uphold this damn foolery of Hindu law, dividing people into four castes, there is no sense in your saying that untouchability is inhuman, it is barbarous, it must go.....

Shri Nand Lal Sharma: On a point of order: Is this parliamentary? Let the Chair decide. He said 'damn foolery of Hindu law'.

Mr. Chairman: Whatever might be the meaning of the word or the propriety of it, I think it is not unparliamentary in the technical sense of the term.

Pandit K. C. Sharma: I am sorry. I never injured any gentleman's sentiments, and if I have injured, I am double sorry. I say it is not a tenable proposition.

Now, Shri N. C. Chatterjee has talked about divorce. I read the law about marriage as it stands. "Divorce is not known to the general Hindu law. The reason is that marriage from a Hindu point of view creates an indissoluble tie between the husband and the wife. Neither party consenting to a marriage can divorce the other unless divorce is allowed by custom. Change of religion and caste is not obtained as a dissolution of marriage nor it is the adultery of either party, nor even the fact that the wife has deserted her husband and become a prostitute." I do put it to what is called common sense test. Is it a good law? Is it a law according to the criterion of what the American jurists say, "due process of law"? One of the criteria was that a law must appeal to the civilised conscience of man. Otherwise it would be a tyranny of the majority. Against the tyranny of the majority the American jurists said that law must be tested by the due process of law. What was due process of law? That was the conception of the English jurists also. The English jurists said, "The Law of the land". It meant 'the law' that could appeal to the civilised conscience of the people, and that was taken up by the American jurists and Manu also upholds it. What is the law that must ultimately appeal to the civilised conscience of man? And this civilised conscience of the people has itself brought in many a great revolution in human thought, in the human way of living and in human faith and worship. What did Martin Luther say? He said the acts and practices of the Bishops at Rome were not christian. "It is simply sacrilege." Then he declared, "Here do I stand and I cannot do otherwise and say that it is not the word of God but the word of adultery, the act of corruption" and the man suffered, and the entire faith of the Christian world was changed. What did Dayanand say? He said that the code of conduct should appeal to reason. Therefore, the fundamental test of a good law is the test of reason. Law is considered by Aristotle 'the highest reason seated in the breast of man'. Do you think what Shri Chatterjee says, is a reasonable attitude? Does it testify, does it stand to common sense that a woman becomes a prostitute and she regains her position as a wife? Who is the husband who would put up with it? I want Shri N. C. Chatterjee to face this situation. Can he stand this situation? If he cannot stand this situation with all the big burden of the great books on his back, then how can he expect others to stand the situation? Therefore, law as it is, has to be viewed.

I submit that I have all respect for the great *rishis*. I am a born Brahmin; I am born as a Brahmin and I am bred, trained as such and am nourished in that family and I am deeply inhered in it. Do you think it is an easy job to do away with old traditions? I respect the very picture of my grandfather whom they called 'Pandit'. I have the word 'Pandit' before my name. My own friends said, "why do you like to have it"? Well, I see no reason why I should not have it. I feel respectable.

An Hon. Member: The Prime Minister also had "Pandit" before his name.

Shri Kanavade Patil (Ahmednagar North): The criticism made by the hon. Member against Shri N. C. Chatterjee is not a very fair and proper criticism.

Pandit K. C. Sharma: So, I respectfully submit that despite all these fine sentiments and the traditional tie that binds me, I say that situations and conditions are obtaining where we must move forward. We must have a law and we must codify it. Whatever it is, it is a different thing.

Therefore, my first submission is that there is no such thing as Hindu law based on the sacred books as many of our hon. friends think. The law as it exists is simply the decisions of the Privy Council, and for an in-

dependent sovereign people, with a claim to a great civilisation, it is not a creditable thing to take those decisions as the basis for the administration of justice.

My second submission is that, as those decisions stand now, they do not make a common sense or reasonable law. Now, there is a point that law should be uniformly made under article 14 of the Constitution. I think it is a far-fetched idea, because if it is construed in the way in which Shri N. C. Chatterjee and Shri V. G. Deshpande have construed then it would mean that a different sort of right has to be conferred on the people. That is to say, if a person is given free treatment at a hospital, every man must go to the hospital and must have a right for being treated free, whether he needs the treatment or not! A man who gets the treatment is a man who is sick and not the man who is healthy. Therefore, article 14 does not say that every citizen, whether he needs a certain remedy or he does not need a certain remedy, should be given the remedy. It does not say that he must be given aid whether he needs State help or not. You are giving so much aid for the refugees. Every citizen cannot claim that aid. It is a particular situation that requires a particular action on behalf of the State. The situation here is that of a rotten, unacceptable Hindu law. Therefore, Hindu law must be renewed and codified. Any other community that does not stand in that situation cannot claim that right. I also agree that there is a policy to have a unified law. What is the way to do it? This Bill is a way towards that, and this is a step towards that unified law.

We have already a Special Marriage Act in which every citizen of India can have himself married and have certain rights and liabilities. There was a suggestion by Shri Chatterjee that there should be an amendment in the Special Marriage Act and the marriage of the Hindus can be registered under the Special Marriage Act at the instance of a party and then automatically the right of divorce will accrue. I beg to submit that both the parties must give consent. That is the provision there. Now, if you amend the provision to the effect that even under reasonable circumstances, if one party applies for it, the marriage can be registered and changed into marriage under Special Marriage Act, it is an impossible position. Why? Because the emphasis in the Special Marriage Act is on the contractual aspect of the marriage.

Shri R. K. Chaudhuri (Gauhati): Even if he does not consent, divorce is best!

1 P.M.

Pandit K. C. Sharma: That cannot be done. The Special Marriage Act has emphasised on the contractual aspect of marriage. There was much argument that every marriage in every faith, in every society all over the world is both sacramental and contractual. Why sacramental? Because one life unites with the other life and wants a unified life, that is the family life, so evolved and so helpful in the way to divinity. That is the sacramental part of every marriage system in the world. What is the contractual part? The contractual part means this: the man has to earn the bread. He is the worker. He is the active partner. He is the protector. The woman is to manage the home. This has been the system, the marriage system in the world. Therefore, they have to contract that the man must earn the bread, must maintain the wife, and the wife, because she has to bear the fruit of his manhood must surrender her person to the husband and must obey the husband. These are the two things in every system of marriage. The only difference is you recite the *slokas* or *mantras* from the Hindu scripture, or you read the *ayats* from the Koran or other very sacred books. The language is different, but the substance is the same. Every marriage in every society is both sacramental and contractual. It is sacramental

[Pandit K. C. Sharma]

because in the beginning of culture and civilisation, perhaps when the world was not pleasant enough, man thought of God, and he thought of the mountains, the rivers and everything else in terms of divinity. Then it was thought that this was just a way to divinity, and so he thought, let us get the light from God and go towards that. So, marriage being an important stage in one's life, it was a *samskara*. *Samskara* was just a stage of life; it was not something of God or divinity. For instance, to be a genuine Brahman, a Brahman wears his *janev*, but where does the God reside? Does God reside in the different threads of that *janev*?

Mr. Chairman: The subject is so vast that just one Member can go on for the whole day. May I ask the sense of the House whether a time-limit could not be fixed?

Shri Venkataraman (Tanjore): Fifteen minutes for an hon. Member.

Shri Patáskar: Yes, fifteen minutes for an hon. Member.

Pandit K. C. Sharma: But that should not apply to me. I shall just conclude.

Shri R. K. Chaudhuri: It should not apply to him.

Pandit K. C. Sharma: I was submitting that every marriage is both sacramental and contractual. That is the position of Hindu marriage also. In fact I had objected to the insertion of that chapter in the Special Marriage Act, which provided for registration of a sacramental marriage. And I still hold that that is a bad law. The conception of a Hindu marriage law is that marriage is more of a sacramental nature rather than of a contractual nature. Turning this sacramental marriage into a contractual one is bad enough. But even taking it as a contractual one, both parties have to agree. A contract has two parties. No law can permit that simply because one party applies for registration, therefore registration would be permissible. If it permits, then it would be a bad law. It would be unconstitutional, and it would be against the conception of the law of contracts. Therefore, such a law is an impossibility.

Mr. Chairman: The hon. Member has taken almost 20 minutes by now. He should conclude now.

Pandit K. C. Sharma: I shall make just a few suggestions and then conclude.

This Bill is defective in two things, that is, with regard to having no marital obligations, and alimony. I want that the obligations of marital relations should be laid down in this Bill. Those obligations are that the husband has certain obligations towards the wife—and they should be legal rights—namely that the wife has the right to maintenance, and secondly that the wife should have certain obligations towards the husband, that is, the husband should have the right to the person of the woman, and the husband.....

Shri R. K. Chaudhuri: Why are you recalling that fact so often?

Pandit K. C. Sharma: It is an important fact. What for were you married then?

Sardar Hukam Singh (Kapurthala—Bhatinda): When did you know that he was married?

Pandit K. C. Sharma: I am sorry. My point is that this is an important thing.

I also submit that the provision relating to alimony from the wife should be deleted. The conception of marriage as it is that the man is to support his wife, not the wife to support the husband. Equality is a thing which people read in books, but it is nowhere in the world. Man is different from woman, and by his very constitution, and by the long history of his working in the matter of marital relations, he is expected to work for the wife and not *vice versa*. If there is any man who expects his wife to

support him, I would say that he is not a manly man.

Sardar Hukam Singh: It applies to Shri R. K. Chaudhuri?

Pandit K. C. Sharma: Some of my friends here are anxious about the preservation of the Hindu law, about the purity of marriage, and they feel that something of the traditional form should exists. I entirely agree but provision of divorce is a necessity under the present conditions, and you cannot escape it. You can make it stricter if you like, and you may not make it easy. For the marriage bonds should not be broken easily and the happiness of the home is a thing which is a blessing for the husband, the wife, as well as for their children; our society has lived long under such conditions also. So, we can allow for divorce, but we can make it strict at the same time.

Shri Khardekar (Kolhapur *cum*-Satara): I welcome this Bill, and wish to give it my very strong support. I feel very happy that my hon. friend Shri Pataskar is the final and the determining cause of this Bill, and with whatever weight I have—and you know I have a fairly considerable weight—I shall help him to push it through. I wanted my hon. friend Shri N. C. Chatterjee to be here, so that I could reply to some of the points raised by him. I shall postpone it for some time; if he comes I shall talk about them or I shall speak about them during the clause by clause consideration. I want particularly to speak on the point raised by him about the sacramental part of marriage.

I hope you will give me sufficient time, because I have been seriously thinking of marriage, not my marriage but the Hindu marriage.

Sardar Hukam Singh: You are not married yet?

Shri Khardekar: Besides, being unmarried, I am the best qualified to speak on marriage; I alone can take a detached, objective and philosophical view of marriage. Those who are entangled and enmeshed in the matrimonial turmoil are not likely to take a very dispassionate view. It is the spectator who sees, understands and appreciates the game far better.

Shri M. S. Gurupadaswamy (Mysore): Game of whom?

Shri Khardekar: Game of life, and also any other game.

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): Of which he has had no practical experience at any time.

Shri Khardekar: I am talking about marriage. About other things you can see me in the lobby.

Those who are happily married cannot possibly think of, and are bound to object to, divorce. For instance, those who are rich think that the poor deserve their poverty. Those who have children think that the people who have no children rightly deserve that sort of thing. It is not necessarily their fault. A barren soil or a lifeless seed cannot yield any crop.

Coming to this particular point and talking seriously, I think we have to consider two attitudes, which are dangerous in point of marriage, the attitude as represented by the ultra-modern, represented by, you may say, the Americans, particularly in Hollywood, and the other, the ancient reactionary attitude of Shri N. C. Chatterjee, Deshpande and company and the Jan Sanghwalas.

An Hon. Member: What about the Ram Rajya Parishad?

Shri Khardekar: I wish to say something about it later on. There is a very great difference between the other two organisations and that of my hon. friend Shri Nand Lal Sharma; unlike his likes, he is very sincere about everything.

Consider America's attitude to life, to marriage and to divorce. This age is the age of machines, and man has made the machine, but the machine has devoured man. Ask a typical American where his home is. He feels

[Shri Khardekar]

baffled. He tries to scratch his head and then he says, well, I am living in such and such a suite in a hotel on the hundredth floor in a New York sky-scraper. If you consider his daily life, you will find that he gets into his Ford car early in the morning, goes to his office, does very hard work there, earns a lot of money, goes to a place of entertainment to soothe his racked nerves, eats, drinks, dances, listens to exotic Negroid jazz music, and returns home at night mentally tired and morally famished.

Now, his wife waiting for him, leaves the home—that is the hotel—and when they meet next they meet in a divorce court. Any reason is sufficient for a divorce. One complaint that was held up was that because the husband had not cut off the toe nails which gave extreme mental anguish to the wife. Then, if there are children and if you ask the children: "Where is your daddy?" they will say rather surprised: "Our daddy? Do you mean the gentleman who meets us on Sunday morning?" The children meet the daddy on Sunday morning if the daddy is not a golfer. There is something to be proud of our joint family system. But, I had a conversation with a friend of mine the other day. There happened to be one business man from Bombay. When I was in this mood of praising the joint family system, he said: "Reserve your judgement. I wish to tell you my experience of the joint family system". He said: "My father with 5 brothers—that is 6 in all— started their life. They married and so there were 6 plus 6 making it 12. Then when the children and grandchildren are there, the number is 142." Now, with this prolific, procreative and creative capacity or faculty and the extraordinary fecundity if two or three generations are allowed to pass, we will get figures of gigantic mathematical proportions. Therefore, joint family system is good provided it does not degenerate into a tribe or something more. Now, in this Bill we are having marriage and divorce but from the title the word 'divorce' has been deleted. That is a good thing because death and life may be inseparable but marriage and divorce are not inseparable. Divorce is a necessity in some cases only; that is what we ought to consider.

But, going back to Americans, as this is an age of machine, age of speed, age of short novels, shorter stories, shorter skirts, shorter speeches, —15 minutes, 10 minutes and 5 minutes—therefore, we have very quick marriages and quicker divorces. Now, I will tell you just a short story which I have read. A newly wedded couple went to their flat and surveying the flat the wife said: "Darling, things seem to be very familiar" and after some time they discovered that it was a union but it was a re-union, and a very happy re-union; they had been married previously.

Maxim Gorky talking to some peasants in Russia was extolling the achievements of science. He said: "Now we can fly like birds in the air and swim like fishes in water". Then one poor farmer got up, interrupted him and said: "But, Sir, we do not know how to walk like human beings on earth, we have lost the art of living".

Now, looking to the Americans we find money, more money, power, more power by sacrifice of family life, mind and soul. The conceit of wealth, the arrogance of power make the Americans speak as they do not only through their nose but through their hat. This is the ultra-modern trend that will lead to A. Huxley's "brave new world". I strongly recommend the "brave new world" to you. If the scientific progress goes on in this manner, if you ask a brave young man of the future about his father and mother, these words have no meaning for him. He will be the product of artificial insemination and other things. If you talk of Kalidas and Shakespeare they are anachronisms. If you ask their own names they do not know their names. They are

known by some signs or mathematical terms like *alpha, beta* and so on. According to D. H. Lawrence, "man is like a tree uprooted. We have got to fix him back in nature again".

The next or the other danger comes, as I said, from the Hindu Mahasabha, Jan Sangh and allied organisations. Now, let us consider their attitude towards life. I do not know whether I will get time to talk about sacramental marriage at some other time when the clauses are taken up. Let me postpone that because I do want Shri N. C. Chatterjee to be present. I am absolutely sure that I will be able to convince him. I do certainly believe that marriage is a sacrament. I would not need to bring volumes to interpret what sacrament is, but from life and from experience I can do that. Use just the common sense and common intelligence that we have.

Why I am not considering Ram Rajya Parishad as this particular organisation is not a political organisation. I am rather inclined to suspect the motives of political organisations with small following, whenever they speak. I may be wrong here. Now, before I proceed I want to tell one thing. I do not know if I should be personal—personal with regard to myself; I will not be personal with regard to anybody-else.

This early morning I dreamt a dream and morning dream is supposed to come true. You can believe me, Sir, I wanted to jot down certain points. There was no piece of paper and there was only this envelope and I started writing.

Shri N. C. Chatterjee really welcomes all these measures that he condemns here—that is the Constitution Amendment Bill, the Hindu Marriage Bill and so on. Why? For his own reasons, obviously. Inspite of the apparent indignation and the thundering resounding condemnation he welcomes them, and there is now and then a sprinkling of agreeable laughter. His laughter and his thundering is almost like the smile of Mona Liza very enigmatic. But, I will try to interpret that. We have heard from him that the Constitution Amendment Bill is against the poor, and the great five champions, even more important than the five Pandavas who voted against that Bill— Shri N. C. Chatterjee, Shri V. G. Deshpande, Shri U. M. Trivedi, Shri Tulsidas and Shri G. D. Somani—are the champions of the poor. With regard to the Hindu Marriage Bill and other two Bills, he says that at least 90 per cent of the people, an overwhelming majority, are against these measures. Now, in my dream only Shri N. C. Chatterjee was the hero. All were admiring his eloquence. You know, Sir, that what he says mainly is: "no mandate from the people; no referendum; people have not been consulted;" this has to be kept going and within about 1½ years or 2 years we are going to have the next elections and more than 90 per cent of the people are opposed tooth and nail to these Bills. Well, my dream was that power like a ripe fruit—I could see an actually ripe fruit—falling into the lap of my friend Shri N. C. Chatterjee. Then of course, the Hindu Mahasabha and the Jan Sangh will form the Government. Shri N. C. Chatterjee naturally will be the Prime Minister. But, that being the Hindu Mahasabha Government it will be Ram Rajya and the Prime Minister will not be required to stay long engaged in Government work. He will take only Rs. 100 or so, but he will spend about 5 to 6 hours in the Supreme Court. Then the brilliant barrister Shri U. M. Trivedi will be the Minister for Law. This brilliant barrister went to Kashmir to defend India's greatest son Syama Prasad Mukerjee. I do not know if the story is true; it may be wrong. But when the client saw the lawyer, the client got a shock. I do not mean it was the cause of the tragedy.

Shri R. K. Chaudhuri: Do you recall his memory in this spirit of levity? It is most undesirable.

Mr. Chairman: These personal reflections should be avoided.

Shri Khardekar: My hon. friend Shri Deshpande will be the Minister for War. He will be called Sir Senapati with the title of Zunzar Rao, The P. M. being the reservoir and the repository of Hindu culture and civilization —I won't use any names—and the greatest constitutional lawyer,—this was my dream, so please excuse me for any exaggerations—will start amending the Constitution so as to do away with all the mischief done by this Congress Government, and certain new fundamental rights will be added. The first of them will be that all Hindu women will have the wonderful and the glorious right of burning themselves on the funeral pyre of their husbands. The second fundamental right would be that the cow will be declared a divine being.

Shri V. G. Deshpande (Guna): Do not laugh. He is seriously saying.

Shri Khardekar: And all Indians, including Muslims, Christians and so on will be compelled to worship the cow. But the cow, being a diety, will not be offered any food or fodder. The cow will die by starvation. Better, because in heaven there would be far greater spiritual life for the cow. The foreign policy will be, to quote Shri Deshpande, "the enemy of our enemy will be our friend". We will have alliances. Of course communalism will be fostered. War will be declared, and the result will be that India and the world probably may be destroyed. But they will be very happy, because being very virtuous people they will have a very important position in the other world. I have been serious.....

Mr. Chairman: I am not asking about that, but I thought you have come to an end. You have taken much time already.

Shri Khardekar: There should be something of equality. I also came through an election, probably with a few thousand more votes than some Members—I do not want to name any persons—but every time they have a monopoly of the time and I do not know what crime I have committed.

Mr. Chairman: Let me explain. So far as Mr. Chatterjee is concerned, apart from the fact of his eminence, he was expounding a view which was contrary to the express provision of this Bill, and therefore whatever view he could expound to this House was given the largest possible time. But so far as the other views are concerned, I do not think matters about one's dreaming and so on can be continued for any length of time. I have already given twenty minutes to the hon. Member.

Shri Khardekar: I will come to the serious portion and give a direct answer to the arguments used by my learned friend Mr. Chatterjee. I have no volumes before me nor his knowledge on the subject, but I may directly speak on the question of sacrament. I agree that marriage, particularly Hindu marriage, is a sacrament. (*An Hon. Member*: All marriages are like that). But the meaning of the word "sacrament" has to be considered. Sacrament has two aspects, the internal and the external. The inner grace, spirituality, the union of minds, that is the inner and most important part. Even Mr. Chatterjee read one of the quotations "I take thy hand yearning happiness and so on". It is a sort of understanding, a willing acceptance of the other. And then the external or the outward aspect, that is the ritual and the ceremony. You will agree with me, Sir, and everybody must agree that the internal grace and spirituality and the union of minds is certainly the more important and the essential part of a sacrament.

I wish to ask one or two questions. A greedy father gives his young daughter in marriage to a very old man (*An Hon. Member*: But wealthy) yes for money, without the consent of the young daughter. Is this sort of marriage to be called a sacrament? I think it is not. I say it is a sacrilege, a prostitution practised not by the poor girl but by the old man.

An Hon. Member: Do not use that word.

Shri V. G. Deshpande: Are such marriages not provided by this Bill? Have they not provided for marriages between an old man and a young girl?

श्री अलगू राय शास्त्री : यस्य नो दास्यति पिता, स नो भर्ता भविष्यति।

The Minister of Defence Organisation (Shri Tyagi): Not in consideration of money.

Shri V. G. Deshpande: If it is invalid, he has nowhere said it.

Mr. Chairman: I think he may come to an end now.

Shri Khardekar: There will not be divorce, because they say that marriage is a sacrament. Their interpretation is that once a marriage, always a marriage; those whom God has united, let no man put asunder; marriages are made in Heaven. Sir, I do not want to be frivolous, but I do not know if there is a sort of marriage bureau opened somewhere in Heaven and I would like to know the address so that the application of my President, Shri Gidwani I may find out. To make God the marriage agent is profanation and blasphemy. What has God to do with marriage, divorce and all the other things? Religion, to my mind, is a relation between the individual and the universal, between the individual spirit and the universal spiritual force, and religion establishes a harmony in yourself and in your surroundings. These people who have been going with their propaganda, in my humble opinion, have harmed Hindu society and damned Hindu religion. Through superstition they have fettered the Hindu mind. They have created caste system, untouchability, generated communal hatred, even sacrificed saints. And Gandhiji was the last victim.

There are many things that I would have liked to say but I will say them some other time.

Shri Dabhi (Kaira North): I could not understand why our hon. friends, Mr. Chatterjee and other *Sanatanist* friends, were so anxious for the enactment of a unified Code for the whole of India. It can be well understood if any person who did not believe in caste and community insisted that the sooner such a unified Code is enacted the better. But I cannot understand why those friends who want to continue castes and communities were insisting and are insisting upon one unified Code throughout India. They know that even if such a Code were to be passed by this Parliament it would contain, especially, the clauses regarding divorce. We must understand that the clause especially with regard to divorce would be allowed even in that Code. There is no doubt about that. Therefore I want to ask the *Sanatanist* friends: are they prepared to accept the clauses regarding divorce in this Code if it were to come before the House? I would like some of them who speak after me to say, if such a Bill is brought forward, whether they will support at least these divorce clauses.

Another point was sougth to be made out by Mr. Chatterjee that if a vote were to be taken on that issue, namely, on this Hindu Code Bill, then perhaps the Government will be defeated on that issue. We have been flooded with a number of pamphlets by our *Sanatanist* friends during the last few days. In one of them they have accepted the position that the majority of the people in India, at least 80 per cent. of the people, have got marriage by customary law. That means that 80 per cent. of the people of this country, apart from the so-called higher classes, have their divorce by custom. This very fact shows that no man with common sense will say that if we fight the election on this issue 80 per cent. of the people who have up to this time supported the Congress and among whom this customary divorce still prevails would oppose this Bill. I do not think there is any possibility as my friends think. As my friend Mr. Khardekar said there must be some other intention political or otherwise.

As I just now said we have been flooded with a number of pamphlets

[Shri Dabhi]

and so I want to answer some of the arguments made in these pamphlets, especially because those spacious arguments might mislead the unwary and ignorant outside the House.

Mr. Chatterjee has said that Hindu *shastras* are against this divorce. I do not want to enter into any controversy whether marriage is a sacrament or a contract. As my friend, Mr. Sharma, said, it is, in my opinion, both a sacrament and a contract because man consists of both body and soul and as he is not merely of body alone or soul alone, therefore, both these elements, sacrament and contract enter into a Hindu marriage. There is no doubt that according to the Hindu *shastras* the ideal condition is the life-long partnership between the husband and the wife. But, there are certain circumstances in which, even the Hindu *shastras* have laid down that there can be a re-marriage of not only men but women also.

While speaking on this Bill, Shri Pataskar quoted the verse from Parashar Smriti.

नष्टे मृते प्रव्रजिते क्लीबे च पतिते पतौ ।
पंचरचस्वापत्सु नारीणां पतिरन्यो विधीयते ॥

From this sloka, it is absolutely clear that under certain circumstances a woman was allowed to remarry. They cannot deny this; they cannot deny that this is in the *shastra*, but they want to explain this away, saying that this applied only to those women who were not married. That is, it applies to women before marriage, before the *Saptapadi* is complete. *Saptapadi* is considered to complete the marriage. Marriage is considered complete when the seventh step is taken. Before that a man or a woman is not considered as a husband or a wife. If that would have been the position, in the verse it would have been stated otherwise. Instead of the word *Narinam* the word used would have been *Kanyayam*. He would have used the words *'var'* and *'kanya'* instead of the words *'Nari'* and *'Pati'*.

Shri Nand Lal Sharma: The word *'kanya'* is used.

Shri Dabhi: Do you mean to say that between the time of betrothal and the actual marriage he has become *patita* or *kliba*? According to the interpretation of this commentator, the man was all right at the time of betrothal but before marriage took place he became a *kliba*. I go further and say this verse is not only there in Parasara Smriti but it is also in the Narada Smriti. My friend Mr. Chatterjee was referring to Mahamahopadhyaya Kane and said that he was a great scholar of Hindu religion. I want to quote from his very book, from the very book from which Shri Chatterjee quoted. This is what is contained in the *History of Dharma Shastra*. The verse of Parashar Smriti is to be found in the Narada Smriti also. Further the Narda Smriti says:

अष्टौ वर्षाण्युदीक्षेत ब्रह्मणी प्रोषितं पतिम् ।
अप्रसूता तु चत्वारि परतोऽन्यं समाश्रयेत् ॥

If a husband of a woman who has got children is not found, she has to wait for eight years; if she has got no children, she has to wait only for four years. This very fact shows that it has not got the meaning they attach to it. Parasara Smriti also says the same thing. (*Interruption*) The husband has not to wait. Our *sanatani* friends always think that there is absolute liberty for the husband. You will see from Devala that a husband may be forsaken by his wife, "if he be an abandoned sinner or a heretical mendicant or impotent or degraded or afflicted with pthisis or if he has been long absent in a foreign country".

Therefore, you will see that our *sanatani* friends try to explain away things. But the above facts show that under certain circumstances, divorce was also indirectly allowed.

I do not think the framers of the Bill think that they were following the Hindu *shastras*. But, my claim is that

the circumstances under which divorce is allowed in this Bill are all practically the same as those which have been allowed by our *shastras*. I would not admit that because *shastras* say that we must allow divorce. Even if the *shastras* have not allowed this divorce, under the present circumstances we should have some provision for divorce. I challenge my *sanatani* friends to show that divorce is not allowed under certain circumstances in the *shastras*.

Shri Nand Lal Sharma: That challenge is accepted.

Shri Dabhi: It will be seen that these three Smritis, the Parasara, Narada and Devala Smritis allow divorce under certain circumstances.

Shri Tyagi: In Sanskrit and not in English.

Shri Dabhi: Another argument that has been advanced by our *sanatani* friends is if divorce is allowed then it would bring thousands of people, men and women, to the courts for divorce.

Then, they have given certain figures in that pamphlet. In Bombay we have the Bombay Hindu Divorce Act of 1947. The *Sanatani* friends wanted to find out how the Act was working and they asked the High Court to allow them to inspect the records. What do we find? During these 3 years, 1950, 1951 and 1952, there were 140 divorce cases.

Shri V. G. Deshpande: That is in the High Court. In the lower courts, it is 800 per district. This number 140 is in the High Court only.

An Hon. Member: Arya Samajists are also opposed to divorce.

Shrimati Jayashri: (Bombay Suburban): I have been told in reply to a question that 5356 applications had been filed.

Shri Dabhi: The population of the Bombay State is 360 lakhs. The proportion of divorce cases at the rate of 80 applications a year comes to .0001.

Shri V. G. Deshpande: If we take the Supreme Court, it will be still less.

Shri Dabhi: For a population of 360 lakhs, during three years, 50 suits for divorce were filed in a year. From these records, they want to make out that the women have been harmed.

In page 2 of the memorandum, they say:

> "Secondly, customary divorce is an event of comparatively rare occurrence. Its incidence among the Sudras is neither due to the individualistic tendencies among men nor is it due to the emancipation of women. The family as a social institution is no more disrupted or is tending to break among the Sudras than among the regenerate classes of the Hindus."

What this pamphlet says is that in spite of the fact that for hundreds of years, in 80 per cent. of the population customary divorce prevails, still, there is not much divorce. This means that in spite of the fact that divorce was allowed by custom, heavens have not fallen and even according to the *sanatanis*, there are not many cases of divorce among these people. I do not understand why, if, in certain circumstances, divorce is allowed among the higher castes, there will be a plethora of divorce cases. From the very pamphlet, it is clear that under no circumstances, the fear which has been expressed by the *sanatani* friends is likely to be realised.

Then, this pamphlet says:

> ".....there were 94 cases in which simple desertion or desertion coupled with cruelty, or desertion coupled with the keeping of concubine, was stated as a ground for divorce. In almost all the cases in which desertion by either husband or wife was stated, the decree was made *ex parte*."

They say that in certain cases the Bombay Hindu Divorce Act was misused to the disadvantage of women. They say that 94 cases out of 140 in

[Shri Dabhi]

which the cause of divorce was cruelty and desertion were decided *ex parte*. From this they jumped to the conclusion that there was collusion between the husband and the wife, and the wife was compelled to have divorce. It is not a case of men deserting women only; women also desert men. They could not find anything from the records. Because the cases were decided *ex parte*, it does not mean that there was collusion. An *ex parte* defendant who knows that he has no case, would not attend the court. From this report, they want to make out that if there had not been divorce, these women could not have been compelled to seek divorce, and they would have been content with their husbands. The pamphlet wants to suggest that the women would like to stay with their husbands even if their husbands marry several times. I would put it to the women, would they like to have a co-wife in the house? They want to make out that there was no other course except to take to divorce. This is a very misleading statement. Under the Bombay Divorce Act as well as under this Act, there is no necessity to take to divorce. There is judicial separation. In case of desertion and cruelty, there is judicial separation. They believe that our Hindu women do not like divorce. Where is the question of compelling them to take to divorce? Judicial separation is allowed. It is quite misleading to say that in Bombay, the women were compelled to take divorce. There is nothing on record to show this. Merely it is their imagination to say that those women were compelled to take divorce. There is nothing to show that the working of this Bill has put the women to any disadvantage.

Shri R. K. Chaudhuri: I wish my hon. friend Shrimati Subhadra Joshi were here when I speak. There are some people, in the Press at least, who call me a women-hater. That is not true. I am an admirer of women. But, when speeches like the one delivered by Shrimati Subhadra Joshi the other day, are made by respectable ladies, I have a great temptation to call myself a women-hater. I know that there are two Members of this House who are fond of driving jeep cars. One has taken the responsibility of defending our country and the other has assumed the martial spirit here in order to protect the rights of women.

Some Hon. Members: Who is that?

Shri R. K. Chaudhuri: I am not going to mention names. They know themselves.

I cannot understand why this Marriage Bill should have created so much excitement in the minds of some people who had gone to the length of saying that Hindu marriage and customs were nothing but prostitution. On the other hand, another sober, serious and respectable man, as he claims to be, born a Brahmin, so frequently remembers, as a result of the influence of the Hindu code which has been propounded by Shri Pataskar, that the body of a woman is meant for man. If he had recalled it in his own mind, I would not have minded. But why should he speak out so frequently about that aspect of marriage and about no other aspect of marriage? That is beyond my comprehension.

Shri Pataskar: For whom was it meant? I have not said anything like that.

Shri Satyendra Narayan Sinha (Gaya West): Not you.

Shri Jhunjhunwala (Bhagalpur Central): He meant Shri Sharma.

Shri R. K. Chaudhuri: I am not naming anybody. The House knows who has spoken in what strain. As I understand jurisprudence, it is only in order to prevent commission of crimes which have become unrestrainable, which cannot be checked, that you frame legislation, in order to penalise such crimes. I ask the hon. Minister, what has happened to the country that

it has become necessary to bring forward legislation of this kind. In all humility, I ask him to show to us why this legislation for dissolution of marriage and prevention of polygamy has become necessary now. He has himself stated in his speech the other day that polygamy is on its last legs, that monogamy is the principle which actuates Indian life, which really dominates Indian life. It is only in rare instances that polygamy comes into existence. Having admitted that, what was the utility of bringing this legislation in this House? Only in order to wound the religious feelings of the Hindus and nothing else. No other explanation is possible. If polygamy is on its last legs, what was the necessity of having a legislation of this sort at all? My hon. friend, the Minister, has not given any explanation to that. He has said merely that the time has now come to have such a sort of legislation. Why? What time? Certainly time has come for us—him and me—to have a legislation prohibiting polygamy because our days are done. What other explanation has he given in his speech to say that the time has now come for having this? What reason is there for us to say, to the great dissatisfaction of the younger section, that the time has now come and we must stop it now?

Shri Pataskar: I shall explain when replying.

Shri R. K. Chaudhuri: Now, my hon. friend has said that in order to give expression to the views of some people this legislation has to be there. Why? Is it to remove a blot on Indian nationality that this has to be done? Are you thinking of the Indian nation as a whole or are you thinking of Hindus only in bringing this legislation? If you are thinking of Indians as a whole, why do you not give the benefit of this law to the Muslims? Why do you not give the benefit of this law to the tribal people? Why do you say that this law would not be applicable to them? Do you not want to uplift the tribal people?

Shrimati Khongmen (Autonomous Distts.—Reserved—Sch. Tribes): They have better laws.

Shri R. K. Chaudhuri: I am reading from his speech. He says that the tribal people have their own customs and this would not apply to them.

Shrimati Khongmen: It need not. Because theirs are better than yours.

Shri R. K. Chaudhuri: My question is this. Even if it is not necessary for them, it is not necessary for you. Look around the House, look at the Treasury Benches, which is, unfortunately, empty now. How many widowers are there? Why don't they marry? It is because of the economic condition.....

Shri Tyagi: Is it a compulsory qualification?

Shri R. K. Chaudhuri: I am saying that even well-to-do widowers also do not want to marry.

Shri Algu Rai Shastri: There are other reasons.

Shri R. K. Chaudhuri: They are bachelors.

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): Woman haters!

Shri R. K. Chaudhuri: They have become confirmed bachelors. There are Ministers who are bachelors, who do not marry. This is the state of society where people are so much obsessed with a sense of economy that they d o not marry, even though they may feel the sore necessity for it. I repeat even though they may feel the sore necessity for it, they do not marry on account of certain other circumstances. This is the position in the educated class. There was one time when in our Treasury Benches, almost 75 per cent. were widowers and they did not marry. This being the condition of life in this country, why should you bring in unnecessarily this legislation? In order to wound the religious feelings of some people.

Shri Algu Rai Shastri: It should be withdrawn.

[Shri R. K. Chaudhuri]

Shri R. K. Chaudhuri: It will not injure the interest of the country at all if it is withdrawn. Rather, it will bring peace in the country. I can say it with all the emphasis that I can command that but for the fact that our Prime Minister has given support to this Bill, this Bill would not have lasted a single moment. I know—whatever they may say—that the majority of the Members of this House do not see the utility of this Bill at this stage.

Dr. M. M. Das: Question.

Some Hon. Members: No, no.

Shri R. K. Chaudhuri: I stand corrected. I challenge them, did any one of them, except perhaps one or two, put before the country that they were going to support the Hindu Code, during election time?

Some Hon. Members: Yes, yes.

Shri R. K. Chaudhuri: I hope they will send me their names and I will go and worship them. If they will kindly send me their names, I will go and worship them and proclaim their goodness everywhere. I know that it was not an issue in the elections, even in the case of communist Members.

Shrimati Renu Chakravartty (Basirhat): You know nothing about it. You may not have done it.

Shri R. K. Chaudhuri: I do not dispute the fact that this august House has the fullest right to enact any legislation which it thinks necessary in the best interests of the country. I do not dispute that. The question is, whether you will enforce it. The question is, whether you feel that the electorate is behind your back, whether you really feel that you will be able to face the music when it becomes necessary again to do so. I submit, with due respect, that this legislation has not the backing of the people behind it. (*Interruptions*) For whom are you legislating?

Shri M. S. Gurupadaswamy: Homo sapiens.

Shri R. K. Chaudhuri: Do the masses, do the women of the country, excepting a few, excepting a very few, who call themselves educated in the bold western style, want this? Do they really want this legislation? If the progressive section of the ladies want it, are their desires not satisfied by the provisions of the Special Marriage Act which is already in force? Even though the marriage might have taken place under *sanatana dharma*, they can register their names under the Special Marriage Act and with consent they can effect divorce quickly. Why then do you want to outrage the feelings of the Hindus—such of them as are still there—by giving this Bill the name 'Hindu' Marriage Bill? This Bill is as good as the Special Marriage Act. The Special Marriage Act can satisfy the aspirations of the educated women of this country. What is the necessity of giving it rather a Hindu name? You are ashamed to be Hindu. You do not like the caste system. You do not like that marriage should be indissoluble. You do not like many things of Hindus. But, still, why do you want to glorify yourselves by saying that you are having this Hindu Marriage Bill?

Shri Algu Rai Shastri: They want to enjoy the goodwill of that name.

Shri R. K. Chaudhuri: I know that is the fact. In America I am told even those persons who do not profeels the Hindu religion, call themselves Hindus, because the term 'Indian' may lead to the idea that they belong to the Red Indian tribe. Therefore, although they may not be Hindus, they call themselves Hindus.

We are having a law which is most un-Hindu in character. It is against the fundamental principles of Hinduism. Still you call it 'Hindu', because you can glorify yourselves with the name 'Hindu'. That is the reason why you are calling it the Hindu Marriage Bill. Calling it anything else you like, call it the Special Marriage Act or the Marriage Act only

Why do you want to give for this Bill the appearance of the Hindu community? Have it by all means, but make it more liberal. You can say that marriage can take place with the consent of the guardian.....

Mr. Chairman: The hon. Member's time is up. He has already taken more than twelve minutes. I want to accommodate two other Members.

Shri Algu Rai Shastri: Give him five minutes more, Sir.

2 P.M.

Shri R. K. Chaudhuri: I do not grudge it if the educated women want it. But they can have it under the Special Marriage Act. Marriage can take place without the consent of the guardian if it is *sui juris*. There is no necessity of blessings by a brahmin; there is no necessity of a *hawan* or anything of the kind. There is no necessity for offering reasons of cruelty or neglect. Mere consent would do. If the husband and wife are so minded, they can divorce each other and go tomorrow and marry anybody they like. What is there left? Why do you call it a Marriage Act? What is there left of marriage amongst Hindus? You have allowed the Hindus to register themselves under the Special Marriage Act and enjoy all the privileges of daily breaking away from their married life and getting new spouses. I appeal to the educated and progressive-minded men and women of the country that since they are having what they want, why should they unnecessarily wound the religious feelings of the Hindus by having a legislation of this kind. I am sure they will get it so long as our Prime Minister wants it I have told him previously that the entire credit for this legislation will be put on his head because it is his will and we must respect him and we want him for other reasons of a more vital nature. I know that these social legislations do not count for anything. When the Child Marriage Restraint Act was passed, although marriage in the month of June would not be propitious, everyone was anxious to have the marriage performed of the child of seven or nine years even in this capital city of Delhi where all the mighty Government people live. This social legislation will not count much but it will only give a fillip to some persons who want to say anything against the Government.

One more minute and I will sit down quietly. Why do you not call it the Dissolution Bill? That is a thing which the general populace of India resents; they do not want divorce. In order to conceal that fact, you are calling it the Hindu Marriage Bill. But it is essentially a Divorce Act, to which all Hindus are opposed. Shri Pataskar was with us in the old opposition to the Hindu Code Bill. I do not know what change has come upon him, and also on Shri C. C. Biswas, the greatest opponents of the Hindu Code Bill. Now, we are helpless without them.

Shri Pataskar: I was not opponent of the Hidu Code Bill.....

Mr. Chairman: I do not think an explanation is necessary now. The hon. Minister will have a chance to explain his position in his reply.

Shri Pataskar: I do not want any prejudicial impression to be created when some such charge is made, namely, that at one time I was the opponent of the Hindu Code. It is much better to correct it at this stage as that is an incorrect statement.

श्रीमती शिवराज वती नेहरू (जिला लखनऊ-मध्य): आज मैं बड़े हर्ष के साथ इस बिल का स्वागत करती हूं। और आशा करती हूं कि हिन्दू कोड बिल के सभी उद्देश्य इन विभिन्न बिलों के द्वारा पूरे हो जाएंगे। यह आश्चर्य की बात है कि आज हमारे कुछ भाई अपने देश में राजनीतिक और आर्थिक क्षेत्र में तो सुधार करने के विचार से सहमत हैं, लेकिन जब किसी सामाजिक संस्था में या किसी पुरानी रीति में कोई अन्तर करने का सवाल आता है तो वह उसमें कोई अन्तर करना नहीं चाहते। सामाजिक मामलों

[श्रीमती शिवराजवती नेहरू]

में पुराने रास्ते पर ही चलना चाहते हैं। हम समाज के सारे अंगों में एक साथ उन्नति देखना चाहते हैं। यही हम लोगों का ध्येय है और इसी कारण हमारे योग्य मंत्री जी ने अपने देश के दोनों अंग, स्त्री और पुरुषों के कल्याण के लिए यह बिल यहां प्रस्तुत किया है।

इस वृद्ध समाज में बहुत सुधार की आवश्यकता है और यह आवश्यकता बहुत दिनों से है। इससे किसी को इन्कार नहीं है। यदि हम पुरानी रूढ़ियों को नहीं हटाएंगे और समाज में आवश्यक परिवर्तन नहीं करेंगे तो हमारा समाज पिछड़ जाएगा।

हिन्दू धर्म के नाम पर इस बिल का विरोध करना जनता को भ्रम में डालना है। इस बात में मुझे कोई सन्देह नहीं है कि यह जो कानूनी सुधार अब होने जा रहे हैं इनका हमारे वास्तविक हिन्दू धर्म में कोई विरोध नहीं है। हमारा धर्म किसी हितकारी नियम को निषिद्ध नहीं बतलाता है। संसार में बड़े बड़े अन्याय धर्म के नाम पर हुए हैं, और इस बिल का विरोध भी इसी भावना का एक उदाहरण है।

सबसे अच्छी चीज जो मुझे इस बिल में मालूम पड़ती है वह विवाह की रजिस्ट्री की व्यवस्था है। यह चीज आज हमारे देश के लिए निहायत आवश्यक है। आज विवाह करने में धन का इतना अधिक व्यय होता है, इतनी तकलीफ होती है अगर हिन्दू धर्म के अनुसार विवाह किया जाए। इस प्रकार का जो भार समाज पर पड़ा हुआ है वह इस व्यवस्था से हल्का हो जाएगा। इससे समाज को नजात मिलेगी। आज जो हिन्दू लड़की की शादी करना चाहते हैं उनको शादी से तीन महीने पहले से परेशानी शुरू हो जाती है, उन्हें एक बुखार सा चढ़ जाता है, हजारों तरह का सामान इकट्ठा करना पड़ता है, तरह तरह की कोशिश करनी पड़ती है, बहुत से लोगों की खुशामद करनी पड़ती है और बहुत सी कठिनाइयों का सामना करना पड़ता है। आजकल मकानों की समस्या है, नौकरी की समस्या है। इस वजह से लोगों को बहुत तकलीफें उठानी पड़ती हैं। इन सब चीजों से इस कानून की वजह से समाज को नजात मिल जाएगी। इससे हिन्दू मा बाप को बहुत ज्यादा रिलीफ होगा। इसमें जो यह रजिस्ट्री की व्यवस्था रख दी गई है इससे मां बाप को लड़की की शादी करने में बहुत सुविधा हो जाएगी। अगर किसी के पास पैसा नहीं है और वह लोगों को दावतें नहीं खिला सकता है तो उसको अपनी लड़की की शादी में दिक्कत नहीं होगी।

Shri Nand Lal Sharma: I do not see there is any provision for marriage through registration in this legislation.

Mr. Chairman: Order, order. You will have your say when you get your chance.

Shri Nand Lal Sharma: Is there any provision for marriage through registration in this Bill?

Shri Tyagi: I am afraid my friend is heading for a divorce.

Mr. Chairman: Let the hon. Member proceed with her speech.

श्रीमती शिवराजवती नेहरू: मैं समझती हूं कि इस बिल का कोई विरोध न होता अगर इसमें तलाक की बात न होती। मैं देखती हूं कि जो लोग पुरानी संस्कृति को ठीक ठीक समझने वाले हैं वे इस तलाक की प्रथा को समयानुकूल सुधार समझ कर इसके पक्ष में हैं। लेकिन श्री दंशपांडे, इससे बहुत नाखुश हैं। उनका कहना है कि जब प्राचीन समय में हमारे भारतवर्ष में यह तलाक की प्रथा नहीं थी तो अब इसको रखने की क्या आवश्यकता हुई और उन्होंने मंत्री जी से सवाल किया है कि उन्होंने अपने व्याख्यान में यह नहीं बतलाया कि अगर इस तलाक की व्यवस्था को इस बिल में न रखा जाता तो क्या हानि होती। मैं श्री पांडे जी से कहना चाहती हूं कि हिन्दू कोड में यह मसला आया था और इस पर सन् ५२ से विचार हो रहा है। क्या वह आज तक यह नहीं जानते कि इस कानून में तलाक को रखने की कितनी आवश्यकता है और अगर उसको इसमें नहीं रखा

जाएगा तो क्या हानि होगी। इस मसले पर तो बहुत गरमा गरम बहस और वाद विवाद हो चुका है। फिर भी यदि आप नहीं जान पाए तो मैं आपको यह बताना चाहती हूं कि हमारे देश में वैवाहिक जीवन सुखमय नहीं है....

श्री वी० जी० देशपांडे : सुखमय है।

श्रीमती शिवराजवती नेहरू : उसमें बड़ा रंज है उसमें स्त्रियों के आंसू हैं और उनकी आहें हैं....

श्री टेक चन्द (अम्बाला --- शिमला): अब आदमियों के होंगे।

श्रीमती शिवराजवती नेहरू : हां तो मैं आप को बतला रही थी कि अधिकतर परिवारों में स्त्री पुरुष जो हैं वे सुखी जीवन नहीं बिता रहे हैं। घर घर मटियाले चूल्हे हैं और कारण उसका यह है कि पुरुष आज भी स्त्री को अपने पैर की जूती के समान समझता है कि जब चाहा उतार कर फेंक दी और नई पहन ली। अपनी स्त्री को जब चाहे पैर की जूती के समान बदल सकता है। हमारे संविधान में स्त्रियों को समानता का अधिकार होते हुए भी समाज उसपर नहीं चल रहा है। स्त्रियों को समानता का अधिकार हालांकि हमारे संविधान से मिल गया है लेकिन उस पर अमल नहीं हो रहा है और उसका कारण वह भावना है जो हिन्दू समाज के अन्दर बैठी हुई है कि स्त्री के लिए त्याग है, सेवा है, और सतीत्व धर्म का पालन करना और कर्त्तव्य का बन्धन व भार है....

श्री आर० के० चौधरी : इसका आपको अफसोस है?

श्रीमती शिवराजवती नेहरू : स्त्री के लिए तो यह सब कुछ है लेकिन पुरुष के लिए क्या है? पुरुष के अधिकार, शक्ति, अभिमान, दर्प, धन, अत्याचार और अपने हर काम करने के लिए स्वतंत्रता। पुरुष हिन्दू समाज में पूर्ण स्वतंत्र हैं, जो चाहे सो करें।

श्री देशपांडे जी कहते हैं कि पुरुष तलाक की प्रथा को पसन्द नहीं करते हैं लेकिन मैं उनसे पूछना चाहती हूं कि आखिर पुरुष किस लिए तलाक पसन्द नहीं करते। अगर एक स्त्री के रहते हुए ही वह अनेक विवाह कर सकता है, दूसरी दूसरी स्त्रियां ला सकता है और अपनी पुरानी स्त्री को हमेशा के लिए सदैव के लिए मैके भेज सकता है, भले ही वह घुल घुल कर और तड़प तड़प कर मर जाए, उसको कोई पर्वाह नहीं, वह अपनी दूसरी स्त्री को लेकर खुशी से अपना जीवन बिताता है और अपनी उस पहली दुखिया स्त्री को गुजारे का हक ही नहीं देता और उलटे उस को यह व्याख्यान दिया जाता है, यह उपदेश दिया जाता है कि वह अपना पतिव्रत धर्म का पालन करे और आदर्श स्त्री महिलाओं के उनको व्याख्यान सुनाए जाते हैं। वही मसल है कि:---

जबरदस्त मारे रोने न दे

उन्हीं पत्नियों की हमारे देशपांडे साहब ने बड़ी तारीफ की जो जीवन भर मशाल की तरह जलती रहीं और जो अपने पतियों के मर जाने पर पतंगा बन कर पति के साथ जल जाएं। मेरे कहने का जब मैं कहती हूं कि स्त्री जाति दुःखी है इसका यह अभिप्राय न समझा जाए कि सारे पुरुष अन्यायी होते हैं अथवा सारे दम्पति जितने हैं वह सुखी नहीं हैं, यह बात नहीं है। एक भी दम्पति सुखी नहीं है, ऐसा मेरा कहने का मतलब नहीं है। किसी ने कहा है:

"न हर जन जनस्तो, न हर मर्द मर्द,
खुदा पंज अंगुश्त यकसां न कर्द"

सब दुनिया में ऐसा नहीं है, यह ठीक है कि यह सब में लागू नहीं होता लेकिन अधिकतर समाज में ऐसे स्त्री, पुरुष हैं जो उस प्राचीन विवाह की रस्म से जकड़े हुए हैं, विवाह की श्रृंखलाओं में जकड़े हुए हैं और दुखमय जीवन बिता रहे हैं, ऐसे दुखी लोगों को उनके दुख और रंज से छुटकारा और राहत दिलाने के लिए इस किस्म के विधेयक की आवश्यकता थी और यह बड़े हर्ष का विषय है कि सरकार इस तरह का एक सामाजिक सुधार का बिल हाउस के सामने लाई है।

श्री देशपांडे जी कहते हैं कि पुरुष तो बहुविवाह केवल एक दया के खयाल से, उदारता के खयाल से या तो विशेष परिस्थितियों के वश

[श्रीमती शिवराजवती नेहरू]

में पड़ कर दूसरा विवाह करते हैं, जैसे पहली स्त्री अगर पागल हो गई या कोढ़ी हो गई, तो उस अवस्था में वह दूसरा विवाह कर लेते हैं, लेकिन बेचारी पहली स्त्रियों को दया करके उन को खान्ग भी देते हैं और दूसरा विवाह कर के अपना जीवन भी सुखमय बना लेते हैं। लेकिन मैं उनसे पूछना चाहती हूं कि क्या हमारे हिंदू समाज में ऐसे पुरुष नहीं हैं जो अपनी पहली स्त्रियों के रहते हुए भी दूसरी स्त्रियों से प्रेम नहीं करते? हमने देखा है कि चार चार और पांच पांच बच्चों की माताओं को अधेड़ अवस्था में बेसहारा छोड़ कर युवतियों से दूसरा विवाह कर लेते हैं.....

श्री वी० जी० देशपांडे: तलाक की प्रथा रखने से ऐसा ही होगा।

श्रीमती शिवराजवती नेहरू: वास्तव में स्त्री को अपने घर से इतना प्रेम होता है और वह इतना उस से बंधी हुई होती है कि कभी वह अपने घर और बाल बच्चों को छोड़ना नहीं चाहती है जब तक कि उसको बहुत ही अधिक क्लेश और कष्ट न हो और उसका जीवन दूभर न हो जाए तब तक स्त्री कभी अपने घर को छोड़ना नहीं चाहती, लेकिन हमारे देशपांडे जी का यह विचार है कि यह बिल पास होते ही सब स्त्रियां तलाक देने के वास्ते तैयार हैं और वे फौरन अपने मर्दों को तलाक दे देंगी....

श्री वी० जी० देशपांडे: सब नहीं कोई कोई।

श्रीमती शिवराजवती नेहरू: आपने बम्बई की एक अभिनेत्री की मिसाल दी थी कि जिसने एक सेठ से शादी की....

श्री वी० जी० देशपांडे: सेठ नहीं मुसलमान से शादी की।

श्रीमती शिवराजवती नेहरू: शादी के ढाई महीने बाद पन्द्रह दिन का नोटिस देकर बिना कहे हुए ही वह उनको छोड़ कर चली गई।

श्री वी० जी० देशपांडे: वह चली नहीं गई बल्कि तलाक दे दिया। यूनिलेटरल तलाक मुसलमानों में है।

श्रीमती शिवराजवती नेहरू: हिन्दू, मुसलमान की बात इसमें कैसे आई।

सभापति महोदय: अब आपका समय खत्म हो रहा है, जल्दी खत्म कीजिये।

श्रीमती शिवराजवती नेहरू: मेहरबानी करके मुझे थोड़ा टाइम और दिया जाय।

सभापति महोदय: दो मिनट में आप खत्म कर दीजिये।

श्रीमती शिवराजवती नेहरू: मैं कहती हूं कि कहां हमारी घर गृहस्थी की शरीफ बेटियां और कहां उसमें सिनेमा की एक अभिनेत्री की बात आपने रख दी। हमारे देशपांडे जी को तस्वीर का एक ही रुख दिखाई देता है। आपने यह नहीं देखा कि वह सेठ जी ने अपने घर की लक्ष्मी का तिरस्कार किया होगा और उसको रोता छोड़ करके बम्बई की एक अभिनेत्री से शादी कर ली होगी। मेरी राय में वह सेठ जी इसी योग्य थे।

Shri V. G. Deshpande: I take very strong exception, even if she is my sister, to her expressing the desire in such a frivolous manner I request her that in view of her old age and responsibility, she should withdraw the statement. (*Interruptions*).

Mr. Chairman: Order, order. The hon. Member may kindly continue the speech.

श्रीमती शिवराजवती नेहरू: आज के हिन्दू समाज में स्त्री की बड़ी दयनीय अवस्था है, स्त्रियों को इंसान नहीं समझा जाता है, न यह समझा जाता है कि उसके पास कोई दिमाग है या दिल है या कोई भावना है। या उसको कोई साथी की जरूरत है और न उसको प्रेम की जरूरत है। पुरुष कहते हैं कि हम इनको अपने घर में रक्खे हैं, खाना कपड़ा दे देते हैं और इनको क्या चाहिए।

अगह दई कैसी भयी कि अन चाहत के संग
दीपक को भावे नहीं उल २ मरत पतंग

जब हमारा दिल चाहता है हम किसी दूसरी

स्त्री से शादी कर लेते हैं, प्रेम कर लेते हैं, घर में जो औरत है उसकी हकीकत एक जानवर से ज्यादा नहीं समझते, जैसे जानवर के आगे घास, पानी डाल दिया जाता है उसी तरह उस को भी खाना कपड़ा दे दिया, इससे ज्यादा उसको क्या जरूरत है। स्त्री की हैसियत हिन्दू समाज में जानवर से अधिक नहीं है, इस तरह की हमारे पुरुष समाज की भावना रही है।

चटर्जी साहब ने कल जब अपना व्याख्यान दिया तब उन्होंने यह कहा था कि हमारी सीता, सावित्री हमारे भारतीय समाज में आदर्श महिलाएं थीं, उनका बड़ा ऊंचा आदर्श था और दोनों को आज सारा भारतवर्ष पूज्य मानता है और अकेले भारतवर्ष के लोग ही नहीं बल्कि विदेशी लोग भी हैरान और चकित हैं कि हमारे देश में ऐसे ऊंचे और महान् आदर्शों को लेकर स्त्रियां पैदा हुई, मैं मानती हूं कि वह बिलकुल सच कहते हैं लेकिन हमारे देश में दूसरे प्रकार की भी स्त्रियां हैं और उनकी भी उतनी ही महानता पाई जाती है, जैसे अहिल्या हैं, द्रोपदी हैं और तारा हैं।

हमारे यहां लिखा है कि उन्होंने कई कई शादियां की थीं। महाभारत में लिखा है :

"अहिल्या, द्रौपदी, तारा, कुंती, मन्द्रोदरी तथा !
पंचकन्या स्मरेन्नित्यम् महापातक नाशनम्।

लेकिन जब यहां पर बात की जाती है तो तस्वीर का एक ही रुख देखा जाता है, दूसरा रुख नहीं देखा जाता है।

जो यह कहा जाता है कि शादी जो है वह एक सैक्रामेन्ट है और उस की बातें ऐसी हैं जो कभी टूट ही नहीं सकती हैं, वह भी एक अजीब चीज है। पत्नी को मरने वाले के साथ तो बांध ही दिया जाता है, जन्म जन्मान्तर तक उस को उस पति से नजात नहीं मिलती। हम बाज आये ऐसे धर्म से कि जिन्दगी भर की गुलामी से कभी स्वतंत्रता ही नहीं मिलती। पुराने समय में स्त्रियां अपनी पसन्द से शादी करती थीं, स्वयम्बर होता था। लेकिन अब क्या होता है ? भारतवर्ष में माता पिता स्वेच्छा से प्लैन्ड मैरेज करते हैं, बल्कि सच पूछा जाय तो यह होता है कि मां, बाप अपना भार हल्का करने के लिये, लड़की की शादी खाने कपड़े के लिये करते हैं, लड़के के घर भजने के लिये करते हैं। हमारे तुलसीदास जी ने कहा है :

"फूले फूले फिरत हो, हांत हमारो व्याह।
तुलसी गाय बजाय के दंत काठ में पांव।"

उस बेचारी को जिन्दगी भर के लिये बन्धन में जकड़ दिया जाता है। खाली इसी जन्म के बन्धन में नहीं, बल्कि जन्म जन्मान्तर के लिये उस को बन्धन में बांध दिया जाता है, उस से कभी नजात मिल ही नहीं सकती। ऐसी अवस्था में भला बताइये कि स्त्रियां क्या पुराने आदर्श को ले कर स्वतंत्र हो सकती हैं ? यदि जितनी घृणित और दुःखदायी चीजें हैं वह सब अनुकरणीय हैं और उत्तम हैं, यदि सभी प्राचीन चीजें उत्तम हैं तो प्राचीन काल में ब्राह्मण का क्या कर्तव्य था ? ब्राह्मण का रुपया हाथ में लेना पाप था, वह पैसा कमाने नहीं जाता था। ब्राह्मण का काम त्याग और तपस्या, पूजा करना, कराना, वेद का पढ़ना और पढ़ाना था। यदि आज सारे प्राचीन आदर्श हमारे साथ होते और वही सारी बातें होती तो श्री चैटर्जी आज उस तरह के नहीं दिखाई देते जैसे कि वह आज हैं। वह भी कहीं किसी जंगल में या किसी आश्रम में हवन करते होते। अरे साहब, पिछले जमाने में एक कवि ने कहा था :

"कहते थे बुरा जर को सत्युनसंज पुराने,
उन लोगों के हमराह गये उन के जमाने,
वह फिलसफाओ, इल्मो अदब अब हैं फसाने,
बदला है नया रंग जमाने की हवा ने,
हम लोग जिधर दौलते दुनियां है, उधर हैं,
अल्लाह के बन्दे नहीं बस बन्दये जर हैं।"

आज हम लोगों की हालत यह है कि शायद सब प्राचीन बातों को हम ने भुला दिया हो,

[श्रीमती शिवराजवती नेहरू]

लेकिन सभ्यता और स्त्रियों के सम्बन्ध में सारी प्राचीन बातें ली जाती हैं।

एक बात मैं श्री दंशपांडे जी से पूछना चाहती हूं कि आखिर वह मुसलमानों के इतने हमदर्द क्यों बनते हैं ? उन का यह कहना है कि मुसलमानों को इस कानून से क्यों वंचित कर दिया गया, कानून सब के लिये बनना चाहिये था और उन में मुसलमानों को भी लेना चाहिये था। मैं भाई साहब से यह कहना चाहती हूं कि आखिर क्या जरूरत है कि उन के लिये कानून बनाया जाय ? उन के यहां तो आलरंडी डाइवोर्स मौजूद हैं और लड़की का बाप की सम्पत्ति में हिस्सा भी है। क्या जरूरत है कि मुसलमानों को इस में रक्खा जाय ? क्या यह कोई एलेक्शन की तैयारी है ? मगर शायद वह इस का जवाब नहीं देंगे। उन के लिये तो यही कहा जा सकता है :

"यह फितना आदमी की खाना बरबादी को क्या कम है,

हुए तुम दोस्त जिसके दुश्मन उस का आसमां क्यों हो ?"

अन्त में मैं माननीय मंत्री जी को इस बिल को लाने के लिये बहुत बहुत बधाई देती हूं। साथ ही साथ एक बात और कहना चाहती हूं कि बहुत से ऐसे भी हमारे भाई हैं जिन का यह विचार है कि यदि तलाक की प्रथा रहे तो जिस तरह से गुजारे का हक पुरुष स्त्री को देता है, उसी तरह से स्त्री को भी पुरुष के लिये गुजारे का हक लेना चाहिये। यह बड़ी लज्जाजनक बात है। पहली बात तो यह है कि स्त्री बेचारी के पास धन कहां से आयेगा जो कि वह पुरुषों को दे ? दूसरी बात यह है कि पुरुषों का कोई बहुत त्यागी जीवन नहीं है जो कि उस स्त्री के नाम पर बैठा रहे। वह किसी न किसी दूसरी स्त्री से अपना सम्बन्ध स्थापित कर लेगा।

श्री त्यागी : मैं ने तो मेन्टेनेन्स देने का कोई सवाल उठाया नहीं और मेरी तो स्त्री भी नहीं है, मुझे इस मामले में क्यों घसीटा जाता है ?

श्रीमती शिवराजवती नेहरू : यानी अगर पुरुष को तलाक दिया जायेगा तो उस को भी इस बिल के अन्दर यह हक दिया गया है कि वह स्त्री से गुजारा पा सके। मैं कहती हूं कि यह गलत है। कोई भी पुरुष इस तरह से गुजारे का हक पा सकता है। इस लिये मैं मंत्री जी से कहूंगी कि वह अपने बिल की बात पर जोर न दें और जो मर्दों की बुराई थी उस को मानें।

Shri B. C. Das (Ganjam-South): A hue and cry is raised by the members of the Hindu Maha Sabha and certain sections of the Congress.

Shri Nand Lal Sharma: Nature is thundering above.

Shri B. C. Das: Also my friends thunder. They say that this particular legislation is a revolutionary measure. Unfortunately it is not so. It is a mild, moderate attempt at social reform with all the hesitancy and timidity chracteristic of all social measures sponsored by this Government.

Shri Lokenath Mishra (Puri): Comrade! What more would you have to make it more extreme.

Shi B. C. Das: It is claimed that this social legislation has been sprung on the unwary public all of a sudden but it is not a fact. We all know that this was on the legislative anvil for a very long time and that it was discussed in the last Parliament for a fairly long period. The Rao Committee toured throughout the length and breadth of India and gathered public opinion. When the last elections were fought, this issue was also on the forefront. Our friends from the Hindu Mahasabha and the Ram Rajya Parishad and other conservatives tried to exploit public feelings by putting

forward the plea that in the next Parliament the Hindu Code Bill would be discussed. I know in my constituency my opponent who was a conservative put forward the plea that because I was a communist I would support the Hindu Code Bill and I can tell my friend Shri R. K. Chaudhuri that I frankly told my electorate: 'When I go to the Parliament I would support the Hindu Code Bill". My opponent unfortunately failed at the polls. Fortunately those people who voice such reactionary views here are in a microscopic minority, and therefore it can be safely said that the electorate of India today is not in favour of their views.

Moreover, I would like to point out that this Hindu Code Bill could not be passed in the last Parliament because the Congress Government was browbeaten by the reactionary sections of its own ranks. One will be surprised to know that a Congress Member, Shri R. K .Chaudhuri, comes forward and says that this measure will get through this House only because the Prime Minister supports it and even though the majority of the Congress members are against it. Well, this is a challenge to the leadership of Shri Jawaharlal Nehru, I say that if such a thing is true the members of the Congress Party are nothing but dumb-driven cattle, they don't think but obey. They ought to be ashamed of themselves.

An Hon. Member: It is not so.

Shri B. C. Das: On the floor of this Parliament, I ask Mr. Chaudhuri either to repudiate his assertion or the members of the Congress Party should repudiate him.

Now, it is realy very surprising that even this moderate measure is opposed by the orthodox in this country. They are obviously the orthodox of 17th century minds that oppose this measure. Not any other man, I know, will go against the measure which is only a very modest attempt and which is not going to alter social relations in any revolutionary manner. Unfortunately they claim that Heavens would fall if this legislation is enacted, and the Hindu society will go to pieces. But they conveniently forget that substantially the same measures or same provisions are in the laws that are in existence in Bombay, Madras, Saurashtra and other parts. They forget that the Hindu society has not gone to pieces in Madras or Bombay or anywhere else. They forget the fact that the cases of divorce are not very large in these States. They forget all this conveniently. With all respect to my learned friends of the Hindu Mahasabha, I would say that they are doing a great injustice to the cause of Hinduism.

Mr. Chairman: It is now 2-30 p.m. The hon. Member will continue his speech on the next occasion. We shall take up Private Members' Business now.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

TWENTY-NINTH REPORT

Shri Altekar (North Satara): I beg to move:

> "That this House agrees with the Twenty-ninth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 27th April 1955."

This Report deals with the allotment of time in connection with some three Bills that are stated there in the Report, and the classification of two Bills which have been stated there. I commend this Report for the acceptance of the House.

Mr. Chairman: The question is:

> "That this House agrees with the Twenty-ninth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 27th April, 1955."

The motion was adopted.

TWENTY-SEVENTH REPORT

Shri Altekar: I beg to move:

"That this House agrees with the Twenty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 22nd April, 1955."

This Report is in connection with leave which was sought for a Bill to be introduced in this House. In view of the Agarwal Committee's report which is yet to come, the Committee have recommended that leave should not be granted at this time. That is what is stated in this Report. And I recommend that the House do agree with that Report.

Mr. Chairman: The question is:

"That this House agrees with the Twenty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 22nd April, 1955".

The motion was adopted.

INDIAN ADOPTION OF CHILDREN BILL

Shrimati Jayashri (Bombay-Suburban): I beg to move for leave to introduce a Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents."

The motion was adopted.

Shrimati Jayashri: I introduce the Bill.

CASTE DISTINCTIONS REMOVAL BILL

Mr. Chairman: The House will resume further consideration of the following motion moved by Shri Dabhi on the 15th April, 1955, namely:

Three amendments have been recognition of caste distinction among Hindus be taken into consideration."

Three amendments have been moved to this, two for circulation of the Bill by Shri Keshavaiengar and Shri Sadhan Gupta, and the third one for reference of the Bill to a Select Committee by Shri S. C. Samanta.

Out of the total time of 3 hours allotted for discussion of this Bill, 2 hours and 29 minutes were taken up on the 15th April 1955, and the balance of the time left for its further discussion today is 31 minutes. I understand that the hon. Minister wants that time. So, he will reply now.

The Deputy Minister of Home Affairs (Shri Datar): This is an interesting piece of legislation. When it was taken up for consideration on the last occasion, opinions were expressed which were entirely either in favour of it or against it.

Though it is possible to appreciate the motives underlying this Bill, yet it would be found that there are certain difficulties which have to be taken into account. And these difficulties are so far as the Constitution is concerned, so far as the practicability of this Bill is concerned, so far as the backwardness of the people is concerned, and so far as the long-cherished notions of the people are concerned. It is on account of these three considerations that I have to oppose the circulation of this Bill or the submission of this Bill to a Select Commitee. Moreover, as I shall endeavour to point out, it is very difficult to accept for immediate implementation the provisions of this Bill which are of an extremely wide nature, and which in certain respects are also vague.

This Bill has been introduced now. But some years ago this question had been taken up. While the Constituent Assembly was in session, there was a similar resolution before the Constituent Assembly in August 1948. Shri Diwakar, who was then a Member of the Constituent Assembly, and who is at present the Governor of Bihar State, had brought forward before the Constituent Assembly a Resolution which was almost in identical terms as the provisions of this Bill. He moved in August 1948 the following Resolution:

> "That this Assembly is of opinion that for any purposes connected with the State or its services the Government of India shall not recognise any caste, sub-caste, sect or religion, and that in future it shall abolish the mention or entry of caste, sub-caste, sect or religion in any forms supplied by Government or in any records or registers kept by Government."

In respect of that Resolution there was a discussion on 11th August 1948. It was pointed out then by the then Home Minister of India, the late Sardar Vallabhabhai Patel that though the object of the Mover of that Resolution was not only understandable but also praiseworthy to a certain extent, the whole question required a complete scrutiny in the light of the conditions, especially the backward condition, and also the feelings of the people so far as the eradication of what can be called the emblems or indications of caste were concerned. He also pointed out to the Constituent Assembly that he would have a committee duly appointed to consider what steps, if any can be taken for the purpose of implementing the object which the sponsor of that Resolution as also a large number of Members of the Constituent Assembly had in view.

On this assurance, Shri Diwakar withdrew the Resolution. Immediately thereafter, the Government of India appointed a committee consisting of Shri Diwakar himself as the chairman and a number of other hon. Members of this House. They went into the whole question. They considered whether the time had come for the complete eradication of caste consciousness, and especially for the purpose of excluding the mention of castes or sub-castes or religion in one way or the other. They found that the problem was best with numerous difficulties, and this is what they have actually stated. All that they have desired is that this feeling of Casteism which is naturally at the root of the present backwardness, and—we can almost call it—the craze for division that India has, has got to go one day or the other, the sooner the better. But they ultimately accepted the position that it might not be possible to have an immediate implementation of the provisions for the purpose of removing caste distinctions. That is how they felt. Therefore, they made certain recommendations which were entirely of a guarded nature. I would like to read to the House a summary of the recommendations where they admit that apart from the attempt at governmental level or to a certain extent at public level to remove all caste distinctions there were difficulties in the way and there were also other fields or avenues where the work has to be started as early as possible. Therefore, they stated in the course of the recommendations:

> "The Committee recognise that caste and communal distinctions cannot vanish without social change and economic progress."

And then they said: "Government can early help this process". But they feel that the Government ought to see what it can do in the matter of discouraging caste and communal consciousness, caste and communal organisations and caste and communal conflicts. It might also be pointed out in this respect that Dr. P. S. Deshmukh was also a Member of this Committee. He did not agree even with the modest recommendations that the Committee had made and he stated, rightly or wrongly—and what he has

[Shri Datar]

stated has to be understood realistically because, unfortunately the facts are as they have been stated by Dr. P. S. Deshmukh in the course of his dissenting note:

> "In the course of our investigation it became apparent that there are many difficulties in the way of even a progressive elimination of the mention of names of caste and much more so of the religion of the people."

Then he points out the numerous occasions where a caste has to be mentioned or a caste has to be taken into account, rightly or wrongly, in view of the present conditions. For example, in respect of recruitment to government services, it is found that there are certain castes which are extremely backward in their nature and it is one of the objects of the Constitution—it has been mentioned in a number of articles of the Constitution—that the backward classes of the community should be lifted up. Sometimes they are expressed in the Constitution as the "weaker sections". Some of them are called Scheduled Castes; some are Scheduled Tribes and in one of the articles of the Constitution they have used the expression "backward classes". Now the word 'classes' is an expression which is more or less of a generic nature. But, unfortunately in India 'classes' include 'castes' to a very large extent. Therefore it is that so long as we have to take into account, for the purpose of bringing all the castes and communities, members of the different sects and communities, to a common level, it is necessary that some mention of the caste will have to be allowed to be made so far as certain purposes that the Government have in view are concerned. Therefore, it is stated in this dissenting note and it has been stated in the main report also, where it has been admitted that there are occasions when it would be necessary for Government to know the Caste of the person. Because, caste you will find is an organised unit. It was organised for certain good or bad purposes—it is entirely immaterial. My hon. friend the Mover pointed out to us the origin of caste. Whatever it is, you have to accept it as a fact, as an inevitable fact, that caste constituted an organisation—and it continues also to a large extent—which it is our duty to demolish as early as possible.

The question is whether you can demolish it today and in doing so whether we shall be doing any injustice to the persons of the organisations who go either by the names of such castes or by the names of certain groups or divisions. That purpose also has to be taken into account. Therefore, as I pointed out, as it has been our objective, as it undoubtedly is under a number of articles of the Constitution including I believe 16 and 335,—that the members of all classes should be brought to a common level the word 'classes' has been purposely used. But you and I have to understand that the word includes 'castes' also and therefore, members of certain organisations and members of certain sections. In article 335 they have specifically mentioned Scheduled Castes, and Scheduled Tribes naturally. So, if, for example the expression 'caste' has been mentioned as a fact from a realistic approach by the framers of the Constitution, I would point out to this House that there are a very large number of sections where the castes have been mentioned and the castes have got to be mentioned. When we had the advent of power, then naturally as it has been mentioned in the Constitution, we had to establish a society which has equal opportunities. But, the unfortunate fact remained and at present also remains to a very large extent that our people are in varying degrees of what can be stated backwardness and not forwardness. Therefore, all the backward sections have to be brought together.

In respect of services, as this House is aware, oftentimes very strong criticism is made and, to a very large ex-

tent, we have to accept the substance of the criticism, that their number in the services is very low. Therefore, the Constitution has stated that consistently with the maintenance of new standards of efficiency, Government has to see that the members of different classes—that is, castes and others—are properly represented in Government services. Therefore, you will find that this matter of recruitment of services or proper representation for the members of different classes is one subject where Government have to call for information from the candidates concerned, and they also, as you are aware, act upon the fact that they belong to certain classes or castes. As the House knows, we have made reservations so far as the Scheduled Castes and the Scheduled Tribes are concerned. Therefore, that fact remains.

So, so far as the constitutional obligations are concerned, you require, at least for some years to come, the mention of castes. If in our desire naturally to end casteism as early as possible we do it just today, then certain results of a harmful nature are likely to arise which have also to be taken into account.

Then, we have also got another thing. The Government of India are giving stipends or scholarships to three categories of students. Some are Scheduled Castes; some are Scheduled Tribes and the others are known as Backward Classes. Now, "Backward Classes" is a term which we have accepted from the States. They submit certain lists to the Ministry of Education and those lists have been accepted. Scholarships are given to boys or girls of these three different categories. Therefore, you will find that this expression has got to be used. I need not point out other occasions in the course of the Constitution where a reference has been made, or has got to be made to castes.

Take, for example, the question of reservation of seats in Parliament as also in various Legislatures. Therefore, in the present conditions, however good and however necessary it may be for us to emphasise that caste, so far as official and also public life is concerned has to go, the question whether we can try to increase the tempo or the pace of progress is a factor which we have to take into account.

Therefore, Dr. Deshmukh pointed out in the course of this that it is premature to proceed in the direction suggested in the report and that this matter is a part of a complicated and difficult socio-economic problem. He then pointed out that he was not the only person who was against the proposals, modest as they were, made by this Diwakar Committee. He stated that in view of the realities of the situation, the late Thakkar Bapa (Shri A. V. Thakkar, Member of Parliament) who has done so much for the Scheduled Tribes in the scheduled areas also was of the same opinion that it would be very difficult to have the pace hastened unless at the cost of the progress of these communities. He says, "In this approach of mine I am glad to say that a man like Shri A. V. Thakkar, M.P. shares my views completely". And he goes on to say that caste consciousness is a temporary phase which could be eliminated more easily by tackling the disease at the root rather than—and here comes the point which is very relevant—by superficial measures which do not take the realities of the situation into account; in the appalling ignorance and backwardness of these millions, caste is the only tie that unites them. Unfortunately this is true. This is not what we desire. But as a matter of fact this is what actually happens.

I would not take the time of the House by referring to other portions, but I would point out to this honourable House that there are certain difficulties in the way. What does the hon. Mover has in his view so far as the present Bill is concerned? He desires that for official and public purposes there ought to be no mention of the caste at all. As I pointed out just

[Shri Datar]

now, for official purposes we do require the mention of the caste. In fact, as you are aware, Sir, at the time when the Census operations of 1951 were settled, Government desired that it would be proper to eliminate enumeration of various facts regarding castes. But ultimately certain difficulties arose, and what was done was, as it was settled under the Constitution, Scheduled Castes was a factor to be taken into account, and therefore the enumeration proceeded on certain categories. One was Scheduled Castes; the other was Scheduled Tribes; and, so far as the third category was concerned, all the Backward Classes were grouped together in one lump category. Who were the Backward Classes? Naturally, the Government of India, so far as the Census was concerned, had to depend upon the enumeration or the recommendations of the various States. Therefore, what has been done is that we have got these three categories mentiond. One is Scheduled Castes, the other is Scheduled Tribes, and, thirdly, Backward Classes in general without necessarily mentioning the numerous backward castes or classes that we have in India.

That itself is a matter which has created some difficulties, because we did consider before the 1951 Census that this caste consciousness has got to go and therefore we did make an attempt then of grouping together a number of castes and classes under the general expression Backward Classes. But in Backward Classes *inter se* it would be found that there are different tiers of backwardness, and therefore it would not be proper to depend solely upon a general category of backwardness but we shall have to find the extent as also the degree of backwardness, not for the purpose of maintaining this classification, not for the purpose of maintaining this very harmful feeling of casteism in India, but only for the purpose of understanding the requirements of these socially and educationally backward classes.

And lastly, you are aware, Sir, that two years ago the Government of India appointed a Commission under article 340 of the Constitution. Article 340 of the Constitution enjoined upon Government to appoint a Commission for the purpose of finding out numerically also which are the various classes which are backward in their nature, and then it was the duty of the Commission to recommend remedies for removing this backwardness. The report of the Backward Classes Commission has also been received. That is receiving the attention of Government, and the time will come when this honourable House will have to consider the recommendations of the Backward Classes Commission. Government as also this House will have to consider the whole question. The point is in implementing the recommendations of the Backward Classes Commission or in putting it in a different way, in understanding what are the immediate steps that the Government have to take for the purpose of bringing all these communities on a common level of enlightenment, certain measures have got to be taken. And these measures are absolutely essential until we arrive at a common or equal condition so far as the different classes are concerned. It is only then that democracy would be on a trial. At present we find that in view of this backwardness, educational backwardness, of course economic backwardness, also social backwardness, there are certain difficulties of a very inherent nature which we have to face. It would be entirely wrong to fight shy of the realities of the situation. But I fully agree, and that is the reason why I should like to mention the fact with sympathy that we ought to have a reminder like the one that we have in the Bill, that after all the caste consciousness is entirely a wrong consciousness.

Even in the past period of the history of India, in so far as the so-called advantages of caste were considered, you will have to admit that it was an institution which was evolved only for the purpose of finding out or,

if you like, for democrating the duties and obligations of certain classes of people. But these times have gone. We are now at a stage where all the people have to be considered as equal members of this country. Now there can be no difference in degree, there can be no differences so far as the concessions that have to be given or so far as the rights that are to be enjoyed by all the members of the society are concerned. Whatever might have been its origin, now we have to understand that this caste consciousness has cast its baneful shadow over the whole public life. In politics this caste system ought not to come. But it has come wherever we desired that it ought not to come.

It is for this purpose that we have to keep before our eyes the very high purpose that has got to be implemented, the ideal that we have to reach, namely that we have to reach a stage where, as the author says, so far as the public life of the country is concerned, so far as the official work is concerned, this caste idea has to go. I do not know, it is not necessary for me to understand, to what extent in private life caste might or might not remain. But in any case the caste consciousness should not be allowed to persuade or to entrench itself upon the public life of the country, upon the political life of the country. Therefore, this custom has to go and we have to establish a society, as it is stated, which is both casteless and which has nothing to do with religion, anyway so far as the constituted government is concerned.

3 P.M.

So, if secular government is our idea, as it undoubtedly is, we must establish a society based on equality. Therefore I desire to say that after all our work here is of a limited nature. It is outside and in the large public life that we have to create a consciousness. We have to reform ourselves in the first instance that this caste consciousness has got baneful aspects which have ruined India.

The other day certain persons pointed out from history what the evil effects of the caste system were. Those of you who know Marathi language may kindly read the thought-provoking and informative book of the late Narsing Chintaman Kelkar, the Editor of Kesari—*Marate Ani Angrez*—the Maharattas and the English. Therein he has pointed out—Mr. Kelkar was not only a great literature but also a member of the then Legislative Assembly for some time and a very good thinker—he has pointed out the reasons that ultimately led to the downfall, not only of the Peshwas of Poona, but also of the Maharattas in the whole of India—he has pointed out in a very lurid way—that the ultimate cause was the caste consciousness. It is this casteism, this division between man and man, which was carried to excess everywhere that was responsible for the fall of the great Empire in India. Therefore, we have to keep before ourselves what untold evils this caste-consciousness has wrought. Taking the facts as they are and taking also the obligations laid upon the Government and the people by the Constitution, where we have been enjoined to improve the lot of the poor people and to put an end to social disabilities which are ultimately due to caste, we have to find out how we can go and what principles we have to follow. We have to go slowly and it would be wrong if we tried to hasten the pace because it will not be good in the highest interests of the nation and, perhaps, what we are giving to the poor people of different castes may be taken away altogether.

So far as this Bill is concerned, it is vague in its nature. The Mover says that caste name should be completely excluded not only from official records, from the numerous forms that we require for applications here and there but also from public life. The hon. Member has used words which are extremely vague in their nature and, therefore, we have to take into account the fact that it is not possible at this time to force the pace of progress, however laudable the object of the

[Shri Datar]

hon. Member may be. I request the hon. Member not to force this particular Bill to a division and not to ask us to refer it to a Select Committee nor to circulate it for eliciting public opinion. This Bill has not been properly drafted in spite of the laudable objects it has. No purpose would be served either by eliciting public opinion or by sending it to a Select Committee. Therefore, while sympathising with the objects of the Bill, I would request the hon. Mover not to press it. I would also request the movers of the various amendments not to press them because it would be against the interests of the persons in whose interests we are all moving. Therefore, I request the sponsor of the Bill and also the movers of the various amendments not to press the Bill or the amendments.

Shri Dabhi (Kaira North): I do not want to take much time but still I would like to say a few words by way of reply. Several hon. Members took part in this debate. But, the speeches of some of the hon. Members, especially of those belonging to the so-called Scheduled Castes, were fine example of how a person who thinks that his self-interest is in danger, real or imaginary, forgets his principles even, and ignores the higher interests and gives, sometimes, the go-by even to common sense. If that were not the case, how could a person who belongs to the so-called lower castes oppose a measure which seeks to do away with a system which treats him as untouchable and hence inferior even to animals. I can understand their anxiety because they fear that if they were to accept this Bill, then, perhaps, the constitutional guarantees will go. But I made a suggestion that so long as certain constitutional guarantees are there for the Scheduled Castes and Scheduled Tribes I have no objection to make the exception when the Bill goes to the Select Committee. So there was not much force in that argument.

But, I was surprised by the speech of the hon. Deputy Home Minister. In the first place, he referred to the resolution which was brought forward in the Constituent Assembly in 1948. Not only that, he quoted Dr. P. S. Deshmukh and stated that even he at that time did not think that the caste names should be dropped.

Shri Datar: He did not put it in the way you have put it. I may point out to the hon. Member that the Government of India decided not to take any action on the Diwakar Committee Report.

Shri Dabhi: It is a fact that they did not agree with this modest recommendation of that Committee. I was just thinking that this is not 1948 but it is 1955 and that was the reason why I brought forward this Bill. At that time there was no Avadi resolution and no talk of establishing a socialistic pattern of society and there was not so much talk of crusade against casteism. So, I was greatly surprised and pained to see that the Government do not specify any time when these caste names could be eliminated. There may be practical difficulties now. It may go to the Select Committee. But, I am sorry that the hon. Deputy Minister in his speech said that he did not envisage any time when the caste names could be dropped and still we hope to establish a casteless society and a socialistic pattern of society.

Shri Datar: Kindly do not impute to me something that I never said. I never said that I did not envisage this possibility at any time.

Shri Dabhi: I do not want to impute motives. I say that in his speech there is nothing to show that he envisaged at any particular time that we will be able to eliminate the caste names. According to Government there does not seem to be any time when the caste names will be eliminated.

I do not want to take a long time. The sum and substance of the Government attitude is—whatever may happen in the future—for the present the caste names are to remain. There are several caste names and they would

continue everywhere in Government records and private life and still we hope that there will be an establishment of a socialistic pattern of society and casteism would go, I submit I cannot accept Government's view, with due deference to the question of principle. Though I am not going to ask for a division, I am not prepared to withdraw the Bill.

Mr. Chairman: There are two amendments for circulation. None of the Members is present in the House. So, I have to put them to the House. The first one stands in the name of Shri Keshavaiengar.

The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July 1955."

The motion was negatived.

Mr. Chairman: The amendment of Shri Sadhan Gupta falls through. How about Shri Samanta's amendment?

Shri S. C. Samanta (Tamuluk): I beg to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

"That the Bill to remove official recognition of caste distinction among Hindus be taken into consideration."

The motion was negatived.

CHARTERED ACCOUNTANTS (AMENDMENT) BILL.

Shri C. R. Narasimhan (Krishnagiri): I beg to move:

"That the Bill further to amend the Chartered Accountants Act, 1949, be taken into consideration."

Shri T. B. Vittal Rao (Khammam): Is it according to the classification?

Mr. Chairman: Yes, according to the classification.

Shri C. R. Narasimhan: Sir, the Statement of Objects and Reasons contains the object of the Bill, but still I would like to read the first paragraph of it, so that the House may become familiar with it.

"The object of this Bill is to amend certain sections of the Chartered Accountant Act, 1949, with a view to remedy certain injustices, lacunae and confusions observed in the working of the Act since 1949 and ensure a smooth working of the law. None of the purposes of the Act nor the undertakings given by the Government will be affected by any of the clauses of this Bill."

The House and the world outside are all familiar with the profession of lawyers. We are also familiar with profession of doctors. But of late this profession of accountants and auditors is getting a steadily growing place in the public affairs of this country. Ever since the joint stock companies came into existence, the necessity for auditors arose and Government in the earlier years thought it necessary to this profession, train people properly for this profession and to help the industrial undertakings with the services of these personnel. They have been actually functioning as, what is generally described as, the watch-dog of joint stock undertakings. They have been looking after the interests of the shareholders against the company management which sometimes threaten to swindle public money. They look particularly after the interests of those shareholders who have generally no periodical access to the functioning of the company. They have to have someone to watch the whole thing on their behalf and that is how this profession of auditors came into existence.

Subsequently, however, the importance of the profession rose further from what it was originally. Now the professional services of the auditors are needed for a variety of tasks like liquidation, receivership of com-

[Shri C. R. Narasimhan]

panies, income-tax accounts, excess profits tax matters, valuation of shares of companies and so on and so forth. The auditor's services are also sought for the promotion of joint stock companies, partnership, drafting of agreements, etc. Naturally the profession's work is growing. Along with that, in our Five Year Plan and the coming Plan also, our industrial enterprises are increasing and we are in need of the services of auditors and accountants in an increasing measure. The work of the auditor has also become complicated, because various new types of companies and corporations are also coming into existence and the technical knowledge nowadays required of an auditor is much higher than what it used to be.

As a result of all these those who were engaged in this profession formed associations of their own and tried to find ways and means for looking after their interests. For a long time, they were agitating that they should also be treated in the same way as lawyers and others, namely, that they should have a separate autonomous Board to regulate their training and discipline.

During the pre-Independence days, this desire of theirs did not receive much encouragement from the then Government. In 1949, since Independence, their view reached the headquarters of the Government and accordingly, with the advice of the leading members of the profession, the last Parliament enacted this measure. It was hailed with enthusiasm by the entire profssion. I am glad to say that the objects have been more or less fulfilled by the proper working of the Act. My intention is not to complain against its working; my intention is only to make the good better.

[SHRIMATI SUSHAMA SEN *in the Chair*]

There are certain minor defects in the Act that was passed by the Parliament in 1949. The reason is not carelessness. As things would have it, this Chartered Accountants Act of 1949, was passed by the last Parliament on the last day of its session in 1949. This Act was taken up by the last Parliament and those who were interested in seeing that this measure controlling the Chartered Accountants was put on the statute-book were anxious to pass this measure at once. They were of the view that if it was delayed them, they would miss the bus. Therefore, they did not mind the small drawbacks or drafting mistakes. They managed to have the Act put on the statute-book. That is how one or two defects or injustices have crept in. Now, it is my purpose to draw attention to these defects and injustices. The substance of my amendments to two clauses is really to remove the discrimination in the case of two categories of persons.

The first category deals with the students who joined the Audit examination in those years, and who were not properly provided for when transitional arrangements were made. From 1916 onwards, we were having the G.D.A. or the Government diploma in accountancy system. Then, we shifted to what is called the Registered Accountants system. It was called the R.A. examination. Under the G.D.A. system, it was possible for the Auditors to get practical training any time they desired before or after they pass the theory examination. Later the new system was introduced. There was one preliminary examination and another final examination. When they changed from one system to another, since the first system was abolished, such of those who were reading and undergoing classes and training under the previous system were provided for to be included in the subsequent system. They had to provide for those who had not passed their examination. After some consideration, it was decided to invite those who failed in the G.D.A. examination to appear in the R.A. final examination. They had to be provided. It is not proper for the public

or the Government to say, "you submit to an examination, you are finished for ever if you failed." That is not the attitude of any responsible Government or any public body which has the interests of the young men of our country at heart. Therefore, it was rightly thought that it was necessary to provide for those who failed and enable them to appear in the newly introduced examination. But they had introduced two examinations under the new system; one was preliminary and the other final. Those students who did not pass the previous G.D.A. examination, in view of that appearance and failure, were allowed to appear in the Final R.A. examination. Because the G.D.A. examination used to be a difficult examination, they were expected to be fit enough for appearing for the Final R.A. Examination. Then, when they passed the Final R.A., what happened to them? That is the main question.

Since the matter is somewhat technical in nature, and since I wish to be accurate, I shall read from what I have recorded. I shall also read the rules governing the transitional arrangements. Unfortunately owing to lack of time, the Bill, as I have told the House, was passed into law on the last day of the last session of the previous Parliament. In the hurry, some errors have crept in in the drafting of the Act. These errors affected a number of persons who tried to get their qualification in the transitional period between 1934 and 1937. Some concessions were granted to persons who were likely to be affected during the transition period. For instance, persons who had appeared for the G.D.A. examination before 1934 and failed, were allowed to sit for the Final R.A. examination. Subsequently, some concessions were given to persons who had passed the G.D.A. examination. A person who had passed the G.D.A. examination, but had not completed the prescribed period of practical training, was enrolled as a Member of the Institute if he produced evidence of his having been in entire charge of the accounts of a company for at least ten years. This concession was not extended, by oversight, to a person who has passed the R.A. final examination, having once failed in the G.D.A. examination and having availed of the right to appear for the Final R.A. examination before 1937. This oversight is sought to be remedied by the present proposed amendment.

There is another clause dealing with paid employees. In the profession of auditors, they can form a company of partners and they can also have paid employees who have to be qualified. That is the requirement of the law. But, these paid employees are not treated as equal in status and in other responsibilities to the independently practising auditors. I refer to the Act of 1949 where provision is made for paid employees. But these employees were given one facility, namely, that for the purpose of entertaining trainees, they were treated as practising auditors. This is what the law has said.

> "An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding employment, be deemed in practice for the limited purpose of the training of articled clerks."

But, actually, while making rules and regulations under this Act, the Institute of Chartered Accountants, with the approval of the Government, have reduced the number of articled clerks that these paid employees could have. Under the Act, there is absolutely no room in any way to restrict the number of articled clerks that a paid employee can have. The provision is that for the limited purpose of training articled clerks, the paid employee will be treated as a free chartered accountant. What the regulations have done is, they have limited the number of articled clerks that this paid employee can engage. This is rather whittling down the right of the paid employee, which the Act grants to him. I think this is unfair. My reason for fighting against this

[Shri C. R. Narasimhan]

rule is not to oblige any paid employees. They are in great numbers. It is not mere personal interest in an individual. The real interest is that our country needs more and more of these auditors. When the students pass the preliminary examination, they have to go through practical training and there is practically no room for training these people.

Under the Act and under the regulation, the number of articled clerks an auditor can have for practical training is fixed. It is fixed according to the seniority, or probably according to the type of business he has and like that. Some auditors can have two articled clerks, some can have three; others who are senior can have seven and so on. But the demand for getting practical training is so great that all these avenues have been filled in, and for those who have had theoretical training and want to have practical training, there is practically no room. They have sometimes to pay premium. Though the premium is supposed to be returnable, since every available seat is booked, unless we remedy this state of affairs, abuses may creep in. A boy who has had his theoretical training, if he finds that he is unable to get admission to get practical training, may have to resort to some other tactics. I do not want that thing to develop. Nor do I want that people who have had theoretical training should go about without practical training. It is surely not the intention of a Welfare State to educate people, to give them opportunities and then leave them in the lurch so far as practical training is concerned. Here the law says that they can have as many as the others have. But under the regulation, it has been whittled down. We have to rectify it. That is why I have brought this Bill.

So, for paid employees, I want that it must be on an equal basis with other independent auditors. If the free independent auditors can have a certain number of articled clerks for practical training, I want the others to have an equal number of articled clerks. I want both to be put on an entirely equal footing, in respect of the question of entertaining articled clerks. I do not want it to be whittled down by regulation. Since they have whittled it down by regulation and Government have not thought it fit to check this, though the Bill has been before them for a number of months, I have brought this motion. Without waiting for the Bill to be brought up to this Parliament. Government could have advised the Institute of Chartered Accountants to rectify matters by changing the regulation. That they have not done. Therefore, I have lost faith in the capacity of the Institute to administer that particular aspect of the law fairly, and I have also lost faith, as my friend next to me suggests, in Government acting effectively or as soon as possible. To the best of my ability I have put the case for the paid employees for being treated on par with other independent members of the Institute. Government have not done it. They have kept quiet. That is the tendency of Government. Government are just a machine. They do not move, and they do not see the human aspects of things.

I was referring to failed GDAs who were by governmental and semi-governmental regulations allowed to appear for other examinations subsequently. The Minister will be tempted to call this a concession. I do not think it can be called a concession. What is the concession? You arrange a particular type of examination. You invent a technical course and ask people to appear. If one man is not able to pass in a particular sitting, he is always authorised to sit for the next examination. Therefore, it cannot be called a concession. (*Interruptions*). It is not the duty of a Welfare State to punish boys who failed to pass a particular examination.....

Dr. Suresh Chandra (Aurangabad): There is no punishment.

Shri C. R. Narasimhan: You must sympathise with them and you must give them another opportunity. You cannot say that those who fail have to go to hell. That is not the way to deal with it—certainly not. I strongly deprecate this kind of attitude. This is not the attitude of a Welfare State. Without straining the English language and without wounding the susceptibilities of my friend, I say it is only in an 'ill-fare' State that such things can happen; in a Welfare State, they cannot happen.

Mr. Chairman: The hon. Member is taking quite a long time.

Shri C. R. Narasimhan: I will conclude now.

So these are the main things. Since Government have not done anything, though the Bill was before the country for such a long time, I had to wax at length.....

An Hon. Member: Eloquent.

Shri C. R. Narasimhan: Not eloquent, but at some length. So these are the two main points. The failed RAs should have been provided for. It is no use saying, 'we gave them one chance. Hereafter, we will not allow them any more'. I am glad the Prime Minister is here now. I am somewhat disappointed at the fact that the Government have not adopted a human approach to some problems. They have acted in a very mechanical way. This relates to the Chartered Accounts training course under the Chartered Accountants Act 1949. Under the rules made, transition arrangements were made for those who started previous to that. Boys who failed in the previous examination were asked to appear for the next examination, and having, by virtue of that permission, passed the new examination, they have not been finally given the rights which accrue to the others. The Government spokesman says that it is just a concession. I do not treat it as a concession. It is the duty of Government to train people, and after they are trained, to give them the full charter to practice. I hope Government will at least become more sympathetic to the human aspects of the problem.

I have already made my submission about paid employees. There are other minor things which are self-speaking. They are only two or three clauses. Therefore, I would request Government to consider the whole matter sympathetically and not simply reject the whole thing by saying, 'We cannot do anything for boys who have failed' or 'We are not interested in equalising paid employees and other independently practising people'. All have to be looked after, not necessarily in the interest of those people themselves, but in the interest of the general community. Boys cannot be left to be trained and then wandering about in the country. We cannot say that it is their look-out; it is our own look-out to watch the career of our boys till the end of their lives and also to provide enough scope for practical training for people who get the theoretical knowledge. Therefore, I commend this Bill to the House.

Mr. Chairman: Motion moved:

> "That the Bill further to amend the Chartered Accountants Act, 1949, be taken into consideration."

Shri S. V. Ramaswamy (Salem): I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 8th August 1955."

My esteemed friend, Shri Narasimhan, has very ably piloted a very complicated Bill and the language that he has used was very eloquent. He has been driven to the necessity of stating that it is an "Ill-fare State". When Shri Narasimhan is driven to that extent, I certainly blame the Government for not taking any action on the Bill which has been before them for such a long time.

The subject-matter of the Bill is somewhat technical, but I tried to understand it and I put it in a simple manner. The points are very few in number. Let me take clauses 4 and

[Shri S. V. Ramasawamy]

6. All that is sought to be done there is this. Uuder the former regulation, before this Act came into being, they could practise under a firm name and even single individuals can call themselves as Ram Lal & Co. or Krishnamurthy & Co. and so forth. Now he has got to practise in individual name, and not a firm name. This is somewhat difficult. Formerly, in the Indian Companies Act, examples were given, and I do not know why they have removed these. I think my friend Shri Bhagat is going to oppose this Bill and say that this is an unnecessary amendment of the existing Act.

The other point that my friend wanted to put forward was this. From 1916 to 1934, they had to pass examinations and then undergo a practical training. The G.D.A. system was given up in 1934. The question cropped up about the failed students in 1934. As a concession to them, they were given permission to appear for three or four more years. They are not placed in the same category. That is the difficulty. My friend suggests: Why not give them this concession? But I have a difficulty here. In spite of these three additional chances, like Mohd. Gori's invasion, he wants to have a fourth and a fifth trial. What happens if the candidate does not succeed even then? I think there is a difficulty here. I do not expect a G.D.A. student to fail even in 1937. Are there any failed students in 1937?

Shri C. R. Narasimhan: There is a list of passed students only, not of failed students.

Shri S. V. Ramaswamy: This concession could be given to them also. That is with regard to clause 3 of the Bill. The more important thing is clause 3(a) dealing with the question and (b) and (c) are consequential and so they are not really very important.

The main point is about clause 2 and there is a little snag about it. It appears to me that the Regulation was framed under this Act somewhat in a restrictive sense. As my friend contended, the Government could have written to the authorities concerned and asked them to revise the Regulation in such a manner that it gives enough and wider scope for more auditors to be trained. If the Government had done that, I am sure my friend would have long ago given up this Bill and not brought it before the House. Even now, I belive that if my friend, Shri Bhagat, will give an assurance that he will communicate with the authorities on this question, I do not expect my friend will press his Bill and I will not press my amendment either.

The point is this. The Regulation framed under the Chartered Accountants Act, 1949, allows members of the Institute of Chartered Accountants of India in practice to train articled clerks as follows:

> As an Associate in practice for not less than three years—one articled clerk.
>
> On being enrolled as a Fellow (after five years of continuous practice as an Associate)—two articled clerks.
>
> As a Fellow who completes two more years of continuous practice after becoming a Fellow or after a continuous practice of seven years enrols himself as a Fellow —three articled clerks.

The whole thing seems to have been rationed out. This seems to be a closed shop. I do not know why they cannot be more liberal and give greater scope for those who pass out of this examination, to get training. This closed shop business must be put an end to. I believe if the Government take some interest in this, it can be liberalised.

A member of the Institute, who is a paid employee under a Chartered

Accountant or a firm of Chartered Accountants is not entitled to be enrolled as a Fellow. There is a distinction drawn between people who are paid and who are not paid and I think this distinction is somewhat invidious and derogatory of those persons who are paid employees. It would appear that the spirit of the Explanation is not carried out. I am sure Government will take these points into consideration and my friend, in that case, will not press the Bill.

Shri C. R. Narasimhan: Those concessions should be given.

Shri S. V. Ramaswamy: In clause 5, my friend wants to underline the word 'reciprocity' by adding the words 'on the basis of reciprocity' in order to be more specific. Beyond that, he is not aiming at anything more serious, so that the Bill is a simple one, though somewhat technical. If my friend, the hon. Minister will assure my friend, Shri Narasimhan, that these things will be attended to, I will not press my Motion and I hope he too will not press his Bill.

Mr. Chairman: Amendment moved:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 8th August, 1955."

Dr. Suresh Chandra: I was painfully shocked to listen to the Mover of the Bill. Not only did he not clarify the objects of the Bill which have been stated in the Bill—we had tried to understand them and we also look to his speech to enlighten us on the objects of the Bill—but he has made things more confused.

Shri C. R. Narasimhan: Not my fault.

Dr. Suresh Chandra: So also his friend, who sits by his side. He came forward to support it, but actually he did not support it and he was asking his friend to withdraw the Bill. I fail to understand why my friend, Shri Narasimhan, should have used such a strong language about our Government. He said it was an "Ill-fare Government". I hope he will repent and withdraw his words.

Anyway, coming to the Bill, I feel that it is a sheer waste of time of the House to discuss this Bill, because there is nothing in it which needs consideration of this hon. House, because the Chartered Accountants Act, which was passed by the Provisional Parliament, was based on the reports of an Expert Committee on the subject which used to advise the Government on all matters of accountancy.

Our friend makes an insinuation against that Parliament and says that the Bill was rushed through due to lack of time and it was passed on the last day. It is a very strange argument to say about that Parliament which passed the Act with the full authority and after careful consideration.

His only one point is such an insignificant point and if the point is accepted by the hon. House, it would mean that we lower the efficiency of our service. The object of the Chartered Accountants Bill was to improve the efficiency and not to lower efficiency and allow inefficient people to come forward and practice as Chartered Accountants.

Shri C. R. Narasimhan: Those who have passed—how can they be treated as inefficient?

Dr. Suresh Chandra: A certain amount of leniency was shown to the GDAs—*i.e.*, holders of Government Diploma in Accountancy. They were allowed some leniency at the time and they were allowed to pass. Our friend wants that even those people who failed afterwards should now be allowed to act as Chartered Accountants. As the House knows, the examination for Chartered Accountants is today one of the most efficient and best examinations that are held by our Government. It is even superior to the examinations which are held in any other country and therefore, I feel this is a most disgusting question which has been raised here to lower

[Dr. Suresh Chandra]

the efficiency of the accountants. I therefore oppose this Bill and I feel we should not waste any more time of this House.

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): On behalf of Government, I regret that I can not accept this Bill. There is only a very short time at my disposal and I do not want to take up more time. My hon. friend, Dr. Suresh Chandra has already lightened my burden. Besides, the Mover of the Bill, although covered a very vast ground speaking generally about the Chartered Accountants he has not touched all the salient points in the Bill except two. Clause 2 which says that paid employees of the Registered Accountants should be given the right of being Chartered Accountants under this Act and clause 3 that refers to the concession. The other points are the reciprocity and the retaliatory measures against foreign qualifications but he has left them out. I will confine myself to the two points that he had raised considering the time at my disposal.

One word about my hon friend, Shri S. V. Ramaswamy. He is a very distinguished barrister of long standing and I thought that there would be some seriousness in his speech. He only said he believed that the Government is in the wrong simply because his friend who sits by him has said so. It is fallacious logic just as one who lived near a mountain and when he saw smoke behind the mountain thought that there must be fire. But, I think, as a lawyer, he should not believe in such fallacious logic. Smoke does not always mean fire. It may be simply smoke and nothing else.

Coming to clause 2 of this Bill, he wants to enable a member of the Institute of the Chartered Accountants who is a salaried employee of a Chartered Accountant or of a firm of Chartered Accountants to be treated on the same footing as a Chartered Accountant in the matter of training of articled clerks. Under section 7 of the Act, only a member of the Institute in practice is designated as a 'Chartered Accountant'; a member of the Institute who is a paid employee of a Chartered Accountant is under the explanation referred to deemed to be in practice only for the limited purpose of the training of articled clerks and is not, therefore, a 'Chartered Accountant.' The provision that paid employees though not technically Chartered Accountants may still train articled clerks was inserted in the Chartered Accountants Bill by the Constituent Assembly (Legislative) with the express purpose of expanding opportunities for practical training to persons who might not find it possible to be articled to practising Chartered Accountants.

He had said that there are quite a number of young boys who had got theoretical training but have not got facilities for practical training. He had also said that the Parliament passed the Bill in haste. None of these allegations are true because this Bill was brought on the recommendation of an expert committee consisting of Chartered Accountants which went into the problem. Representations from all sorts of people came and they were considered and then this Bill was enacted. They felt the necessity of providing this practical training and that is why the salaried employee was given a special concession —the right of having an articled clerk. He said that there was no provision in the Act for this articled clerk to be regulated. He said that this was regulated in an axiomatic or capricious manner. None of these charges are true.

Shri C. R. Narasimhan: I did not say 'capricious'. The regulation is restrictive.

Shri B. R. Bhagat: That is implied. Regulation 32 of the Chartered Accountants Regulations—made by the Council of the Chartered Accountants Institute—was made under section 30

of this Act. The Act provides it. Even if the Act is amended as suggested, it will not serve the purpose the hon. Member has in view. Under regulation 32 the number of articled clerks a Chartered Accountant is entitled to train has been made to depend on the number of years he has been in practice; thus a fellow-member of the Institute in practice for seven years can take three articled clerks, a fellow member in practice for less than seven years can have two and an associate-member in practice for three years can have one. No one can have more than three. As such, nobody can have seven or five and a salaried employee can have one. Even a Chartered Accountant with a practice of less than three years can have only one. As my hon. friend, Dr. Suresh Chandra said, Government and the Institute of Chartered Accountants are very keen that the standard of efficiency of the Chartered Accountants should be raised because public funds and the funds of the companies are audited by them. It is too important a responsibility to be left over to an irresponsible type of people. So, there is a great danger in lowering efficiency of these Chartered Accountants.

Coming to clause 3, which states the main purpose of the Mover of the Bill, he has put all sorts of confusion and tried to put a sort of an emotional case before the House. I would not react as strongly as my hon friend Dr. Suresh Chandra has reacted to him on this but I would put before the House a reasonable case and clear the confusion and I will leave it to the House to take its own view.

Clause 3 of the Bill seeks to provide that those persons who appeared and failed in the GDA or equivalent examinations in 1932, 1933 and 1934 who were allowed under a concession granted by the Central Government to appear for the final examinations conducted by the Central Government in 1935, 1936 and 1937—so many chances were given—under the Auditors Certificates Rules, 1932 and passed such examination should be permitted, on the same basis as those who passed the GDA or equivalent examinations, to be enrolled as Chartered Accountants if they fulfilled the conditions prescribed in such and such notification. The GDA examinations used to be conducted prior to 1934 by the Accountancy Diploma Board of the Bombay Government and any person who passed the examination and completed the practical training prescribed under the regulations for the grant of the diploma had the unrestricted right of auditing the accounts of public companies throughout the then British India. Examinations conducted by the Central Government under the Auditors Certificates Rules, 1932. replaced the GDA examinations the last of which was held in April, 1934. In view of the large number of representations received from candidates who failed in the last GDA examination, the Government of India allowed all those who failed in the GDA examinations of 1932, 1933 and 1934 to appear for the final examination under the Auditors' Charter Rules held in 1933, 1936 and 1937 before undergoing the practical training prescribed under the A.C. Rules.

4 P.M.

When the Chartered Accountants Bill, 1949, was on the legislative anvil, certain representations were made to the Select Committee of the Constituent Assembly. The present concessions which the hon. Member wants to extend were as a result of several representations which the Committee went into, and accepted. The representations pointed out that those persons who had passed the GDA examinations but who had not obtained the Diploma for lack of the prescribed practical training but who had nevertheless acquired sufficient experience in audit work should also be allowed to be enrolled as chartered accountants. The Select Committee was impressed by these representations and accordingly provided in clause (iii) of section 4(1) of the Act that they may also be enrolled as chartered accountants if they fulfilled

[Shri B. R. Bhagat]

the conditions of practical training. They had to undergo the practical training. The hon. Member who moved this Bill seeks to extend the same concessions to the GDA failed candidates who were, in consideration of such failure, allowed to appear in the R.A. examination and who passed it.

Pandit Fotedar (Jammu and Kashmir): I am afraid we are functioning without a quorum.

Mr. Chairman: If it is the desire of the House that we may adjourn, the House may adjourn. Otherwise we can go on.

Shri T. B. Vittal Rao: Yesterday an assurance was given by the Minister of Parliamentary Affairs that quorum would be maintained. So we should maintain quorum.

Mr. Chairman: The bell has been rung. Now, there is quorum.

Shri B. R. Bhagat: I was referring to the candidates who subsequently passed in the R.A. examination, for whom the hon. Member, the mover of of the Bill, wants to extend the concessions. But I think the confusion which he makes is that there is a special handicap which has been put today. He referred to the young boys. There are no young boys under this category. They were all boys who passed about 15 years ago. So, there is no case of urgent necessity or urgent calamity that has befallen. If these people had chosen to receive practical training they could have done it in the last seven years before the Act of 1949 was passed. So, only because the Select Committee chose to give some concession to one set of people and allowed them to appear in the R.A. examination, it does not lie in the mouth of the hon. mover to ask that it should be followed up with further concessions so that they could be allowed to be declared as chartered accountants. These persons, for some reason or other, did not choose to complete the qualifications and register themselves as registered accountants. So, I regret that at this stage nothing can be done.

Coming to the charge about the hasty legislation of 1949, I must say that at that stage, in 1949, in the representation they said that the Committee made the distinction that those who passed the GDA examination and had undergone the requisite practical training were given the concession and that they were declared as chartered accountants and not these persons who passed the R.A. examination. Those who passed it did not undergo the practical training. The Committee made the distinction. Now, six years have passed. Nothing new has happened. I do not know what is the point in giving concessions after six years after the legislation. I do not know whether something calamitous has happened. I think not. He has spoken very warmly and emotionally about this point. I think it is a result of confusion. He is confusing the case of two sets of people and is making all sorts of confusion. I think his affection, I would say, is misplaced. There is no case made out in the matter.

The Bill further refers to the question of reciprocity, and the hon. Member has chosen not to raise that point. I would only say that clauses 4 and 6 of the Bill seek to emphasise them.

Another point that he said about the Bill is that an individual chartered accountant should be allowed to operate or function in the name of the firm. We received several proposals. We went into the matter. Even the Institute of Chartered Accountants and the Council submitted that this might be incorporated into the Act itself. But on examination we find that there is nothing in the Act which prohibits it. The Act provides no penalty even if somebody does it. So I think there is no urgent case about it. We might consider it if there is a comprehensive amendment to the Act. There is no intention of doing so now. So, I think this point is also beside the mark.

The last clause—clause 7—of the Bill seeks to amend part (a) of the Schedule to the Act in order to make clear that a firm of chartered accountants may allow an employee who is also a chartered accountant to practise in the firm's name. I think there is nothing to prevent it. There is only one point about this. Only individual partners and not the firm can be held guilty of misconduct for omissions and commissions enumerated in the Schedules. I think there is no case for amending the Schedule.

I would once again request the hon. mover that he might withdraw the Bill. But he should not go away with the feeling that there is something very wrong in the world of chartered accountants. Nothing is far from the truth. There should not be this misconception in his mind. I would only say that during these few years the prestige of the chartered accountants has gone up.

Shri C. R. Narasimhan: I have said it myself.

Shri B. R. Bhagat: Yes, he himself has said it. As a profession they have made their prestige and mark in the country and there is a good future for them. The misconception that is there in his mind, the earlier it is removed the better. On behalf of the Government I oppose the Bill as well as the amendment to the Bill, by Shri S. V. Ramaswamy namely, that the Bill be circulated. I oppose both these motions.

Shri Mulchand Dube (Farrukhabad Distt.—North): On a point of information. Shri C. R. Narasimhan has in the course of his speech stated that there is a large number of qualified young men who are unable to attach themselves as articled persons to any firm of chartered accountants. Is that a fact? The hon. Parliamentary Secretary has not said anything about it. If that is a fact then I think some kind of a remedy is necessary. We cannot allow young men who are qualified to go about without any opportunities of getting themselves attached to a proper accountant.

Shri B. R. Bhagat: It is not a fact. It is absolutely not a fact. He has only spoken generally about it and not given any instances.

Shri C. R. Narasimhan: May I say a word in winding up?

Dr. Suresh Chandra: No need to wind up. He can withdraw the Bill.

Shri C. R. Narasimhan: I have to explain my attitude.

Mr. Chairman: It will not take very long, I suppose.

Shri C. R. Narasimhan: I am sorry that what I said was quite unnecessarily twisted and it was stated that I had blamed the last Parliament for hustling through things on the last day of its existence when it considered the Chartered Accountants Bill. That was not what I stated. What I really said was that those who wanted Parliament to pass this measure were in a hurry to have this measure passed, and therefore with what little drafting and expert advice they could have they wanted this measure to be put on the statute-book. That was what I stated. I did not blame the last Parliament at all. I do not see any reason why hon. friends of mine here should hasten unnecessarily to attribute motives to me and to twist what I stated. I am very sorry that in their anxiety to show off they had resorted to that kind of thing. I would like to make this clear so that there may not be any misunderstanding about my attitude to this Parliament or for that matter to the previous Parliament.

I did not blame the Parliament at all. I said that those who were outside promoting that Bill, and who wanted that Bill to be put on the statute-book were in a hurry. Therefore, they were quite willing to have the measure put on the statute-book with what little drafting and expert advice that they had. And that Bill was passed on the last day of the previous Parliament, i.e. just on the eve of its dissolution.

[Shri C. R. Narasimhan]

I took care also to point out that the Act has worked fairly well, and I congratulated the profession of auditors for their achievements. Therefore, the charge against me that I was not fair to the last Parliament or to those who were working the Act is not quite correct. I want to remove any misapprehensions on that point, and explain my position.

An Hon. Member: But they had failed in the examination.

Shri C. R. Narasimhan: Some of my hon. friends here have asked, why should we worry about those who have failed. I say that if we are to function as a Welfare State, we have to worry about those who failed also. They were quite young then. Those who failed in the examination and were not provided for in the year 1949 have to be provided for now. Those who failed in the GDA examination but later passed the RA examination were treated on a par with those who passed the GDA examination.

Shri B. R. Bhagat: Minus the practical training.

Shri C. R. Narasimhan: The GDA people also did not have it. My point is the concession given to those who had passed the GDA examination earlier could have been extended to those who passed the RA final examination under the transitional regulations. But that concession has not been shown to them. I would like to make it plain that both categories stand on a par. Therefore, to treat them as if they were different is not proper. I say it is discrimination. And this discrimination should not be allowed by Parliament which not only gives concessions, but which also gives compensation and has assumed to itself the rights of judicial courts saying that Parliament and the State Legislatures can decide these matters and that these matters cannot be made justiciable. When things are being done like that in the case of other matters, we should act justly in this case also and see that there is no discrimination between one class of people and another, but both are treated on a par.

My humble submission is that this discrimination which at present exists should be brought to an end very soon. I am very sorry I have not been able to convince the hon. Parliamentary Secretary. It is not because my cause is wrong, but it is because my way of putting it has been wrong. I take the blame on myself; and I am not fighting shy of that. But I wish to say only this that had Government decided otherwise, it would have been good for these boys, whose career has been spoilt, and some of whom are still without employment.

Shri S. V. Ramaswamy: What is the number of those boys?

Shri C. R. Narasimhan: I am sorry my hon. friend who supported me should put this question to me. I am not here sitting on the Treasury Benches to supply him all this information. If Government had done their duty properly, they should have collected all the statistics and supplied the information to the Secretariat of the House, so that all these details may be circularised to hon. Members. Instead of asking Government to supply all this information, if hon. friends ask me to give the information, as if I am on the Treasury Benches, it is really a mistake on their part. In fact, if I had been on the Treasury Benches, I would have provided them with all these figures. I would not like to say anything further but I would press my motion for consideration, and I would ask the House to accept it.

Shri R. R. Bhagat: I would like to clarify one particular point. My hon. friend has stated that they are unemployed and they are under duress. But I am afraid that this fact is lost over him, that although they are not chartered accountants and they cannot audit public or statutory companies, yet they are doing that work of accountants, and they are auditing the

private companies. Most of them are doing that work, not since today, but since the Act was passed, when the committee—it was not Government which said that—decided not to extend this facility to them. Some of them might be unemployed, but it is not a case of a calamity that all of them are unemployed. They are doing that work, they are not auditing public or statutory companies, but they are auditing private companies, which are quite numerous.

Shri B. N. Misra (Bilaspur—Durg—Raipur): On a point of order. Is it in accordance with the rules that the hon. Parliamentary Secretary should reply, then the Mover says something, then again the hon. Parliamentary Secretary says something, then again the Mover will say something, and so on? Can it go on like this?

Mr. Chairman: The Mover has the right of reply. It was done with the permission of the Chair. So, it was all right. After the speech of the hon. Parliamentary Secretary, the hon. Mover had the right of reply.

Shri C. R. Narasimhan: I would only say this much, and will not interrupt again, even if the hon. Parliamentary Secretary interrupts.

Even if there is one case of injustice to be rectified, irrespective of whether it happened many years ago or not, it is the duty of Parliament to go into the matter and rectify the mistake or injustice. There is a precedent for this in the English Parliament. There is the well-known case of the Mountbatten's estate, in respect of which the Parliament of Great Britain passed a law. A similar thing could be done here also.

Shri B. R. Bhagat: But there is no injustice done.

Shri S. V. Ramaswamy: I beg leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Chairman: What about the original Motion? Is the hon. Mover pressing it, or is he withdrawing the Bill?

Shri C. R. Narasimhan: I beg to move:

"That leave be granted to withdraw the Bill."

Mr. Chairman: The question is:

"That leave be granted to withdraw the Bill."

The motion was adopted.

Mr. Chairman: So, the Bill is withdrawn by leave of the House.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Amendment of section 435)

श्री रघुनाथ सिंह (जिला बनारस—मध्य): मैं प्रस्ताव करता हूं कि क्रिमिनल प्रोसीज्योर कोड, १९६८ (दंड प्रक्रिया संहिता, १९६८) में और आगे संशोधन करने वाले बिल पर विचार किया जाये।

जो बिल मैं ने आप के सामने उपस्थित किया हैं वह इस कारण से उपस्थित किया हैं कि क्रिमिनल प्रोसीज्योर कोड में दोनों तरह के अधिकार एंक्यूज्ड को या एंग्रीव्ड पार्टी को दिये गये हैं। अदालत को रिवीजन का भी अधिकार दिया गया हैं और रिफरेन्स का भी साथ ही साथ इस के सेक्शन ४६१ के मातहत कोर्ट को यह इन्हेरेन्ट पावर हैं कि वह जैसा चाहे फैसला दे सकती हैं। लेकिन समस्या इस प्रकार उपस्थित हुई कि सन् १९५२ में इलाहाबाद हाई कोर्ट ने एक रूलिंग दी जो कि आल इंडिया रिपोर्टर के ४९८ पेज पर कोटेड हैं। उस रूलिंग के कारण जिस में कि कलकत्ता हाई कोर्ट की सन् १९४६ की रूलिंग भी कोटेड हैं एक बड़ी विचित्र समस्या उपस्थित हो गई। रिवीजन और अपील का अधिकार हाई कोर्ट

[श्री रघुनाथ सिंह]

और सेशन जज दोनों को हैं। जहां पर सेशन ट्रायल होता था उस के रिवीजन और अपील का अधिकार हाई कोर्ट को होता है लेकिन मैजिस्ट्रेट्स के यहां जो ट्रायल होते हैं उन के रिवीजन और अपील का अधिकार सेशन जज को दिया गया है। प्रस्तुत कोड के सेक्शन ४२५ के शब्द "सेन्टेन्स और आर्डर" प्रयुक्त हैं। लेकिन अन्तिम दो लाइनों को आप देखें तो आप को पता चलेगा कि उस में "सेन्टेन्स" शब्द का तो प्रयोग किया गया, लेकिन "आर्डर" शब्द का प्रयोग नहीं। अर्थात् रिवीजन सेन्टेन्स के खिलाफ तो हो सकता है लेकिन अगर रिवीजन कराने वाला अदालत के सामने यह मूव करे कि फैसला लोअर कोर्ट के फैसले का निफाज न किया जाय, तो उसका अधिकार सेशन अदालत को नहीं है उस को स्टे किया जाय। इस स्थिति के कारण विचित्र समस्या उपस्थित हुई है। अगर "सेन्टेन्स" शब्द के साथ "आर्डर" शब्द जोड़ दिया जाय तो यह समस्या हल हो सकती है। फौजदारी में दो ही चीजें हो सकती हैं। "सेन्टेन्स" के माने यह होते हैं कि इम्प्रिजनमेन्ट या जुर्माना। लेकिन समरी ट्रायल के अपील या रिवीजन सुनने का अधिकार सेशन कोर्ट को नहीं होता। हाई कोर्ट ही उस में इन्टरफिअर कर सकता है। सेशन कोर्ट को अपेलेट अधिकार सिर्फ ५० रुपये तक के जुर्माने का है। अगर किसी आदमी के ऊपर ४६ रु० फाइन हो गया तो उस की रेमेडी हाई कोर्ट में ही हो सकती है। अगर एक आदमी ने चोरी की और उस के पास कुछ प्रापर्टी मिली कोर्ट ने चोर को छोड़ दिया। लेकिन साथ ही साथ उस ने आर्डर दिया कि प्रापर्टी को भी उस को लौटा दिया जाय। एंक्विटल के खिलाफ हाई कोर्ट में अपील हो सकती है। लेकिन एक रिवीजन का भी हमें राइट है। हम सेशन कोर्ट में मूव करें कि इस चोर के खिलाफ मैं अपील कर रहा हूं और फैसला डिलिवरी आफ प्रापर्टी को रोक दिया जाय, अगर चोर को प्रापर्टी की डिलिवरी फिर भी लोअर कोर्ट के आदेशानुसार दे दी गई तो चोर उस प्रापर्टी को ले कर भाग जायेगा। उस के बाद कोई रेमेडी नहीं रह जाती। इसलिये मेरा सिर्फ एक शब्द का संशोधन है। मैं समझता हूं कि इस पार्लियामेन्ट का यह सब से पहला और सब से छोटा संशोधन है। यह संशोधन है कि "सेन्टेन्स" शब्द के बाद "आर्डर" शब्द और जोड़ दिया जाय।

मैं आप को बताऊं, कि इलाहाबाद हाई कोर्ट ने जो व्यू लिया है वह श्री हरिश्चन्द्र साहब की सिंगल बेंच में लिया गया है। अब तक सेशन जज यह करते थे कि मान लिया कोई सेन्टेन्स नहीं है, कोई आर्डर है, जैसे १४५ का आर्डर है कि अटेचमेन्ट किया जाय जिसे लोअर कोर्ट ने जारी कर दिया। मैं एंग्रीव्ड हूं। मैं इस अटेचमेन्ट आर्डर के खिलाफ यह मूव कर सकता हूं कि यह रांगफुल अटेचमेन्ट हुआ है लिहाजा इसे हटाया जाय। लोअर कोर्ट ने कोई आर्डर पास कर दिया तो उस आर्डर के खिलाफ मैं सेशन जज के यहां मूव कर सकता हूं चूंकि लोअर कोर्ट का आर्डर ठीक नहीं है इसलिए जब तक सेशन कोर्ट का फैसला उस पर न हो जाए तब तक लोअर कोर्ट की आज्ञा को स्टे किया जाए। लेकिन इलाहाबाद हाई कोर्ट की जो रूलिंग हुई है जिसमें कि कलकत्ता हाई कोर्ट की सन् १९४६ की रूलिंग का हवाला दिया गया है, उसके कारण यह समस्या उपस्थित हुई कि कोई भी लोअर कोर्ट अगर कोई आर्डर पास कर देता है तो उसके खिलाफ सेशन कोर्ट स्टे आफ प्रोसीडिंग्स नहीं कर सकता। उस आर्डर के खिलाफ कोई सुनवाई करने का अधिकार उसको नहीं होता। अगर कोई अधिकार होता है तो सिर्फ रिवीजन के सम्बन्ध में। अगर उसका कोई केस आता है तो वह उसको सुन सकता है। अब मैं आपको मिसाल दूं। जिन केसों में अपील होती है उनमें यह समस्या

उपस्थित नहीं होती। क्योंकि सेशन कोर्ट को यह हक है कि अपेलेट केस में अगर वह चाहे तो आर्डर पास कर सकता है। स्टे आफ सेन्टेन्स कर सकता है। स्टे आफ दि फाइन कर सकता है। स्टे आफ दि अटैचमेंट कर सकता है। लेकिन सब से विकट समस्या उस समय पैदा होती है जिसकी मैं आपको एक मिसाल देता हूं। हमारे यहां १०० सी० आर० पी० सी० की एक धारा है इसके अन्दर बहुत दिक्कत पैदा हो जाती है। मैं लोअर कोर्ट के वकील के पाइंट आफ व्यू से बात कर रहा हूं। जिस जगह पर बड़ी मुश्किल पड़ती है। उसी की तरफ मैं आपकी दृष्टि ले जाना चाहता हूं। दफा १०० के माने हैं कन्फाइनमेंट। अगर किसी आदमी को कोई आदमी रोक ले तो होता यह है कि मैजिस्ट्रेट के सामने एंग्रीव्ड पर्सन जाता है। कहता है कि फलां आदमी ने फलां आदमी को रोक लिया है। वह आदमी फलां स्थान पर है। लिहाजा हमें सर्च वारंट दिया जाए ताकि हम उसे कोर्ट के सामने ला सकें। यू० पी० में इस तरह के केसेज स्त्रियों के सम्बन्ध में या एब्डक्शन के सम्बन्ध में होते हैं। जैसे कोई भगाई हुई स्त्री हो, उसके सम्बन्ध में यह होता है कि लोअर कोर्ट में यह मूव कर दिया जाता है कि सेक्शन १०० के अन्डर वारन्ट दिया जाए ताकि स्त्री को लाया जा सके। लेकिन अगर लोअर कोर्ट रांगफुल आर्डर, जिसकी कोई बुनियाद नहीं है, दे दिया, तो सेशन कोर्ट में मूव कर के वहां से कोई रेमेडी नहीं पाई जा सकती।

एक स्त्री बेचारी है। वह पकड़ कर लाती है और आने के पश्चात् लोअर कोर्ट उसको आर्डर कर देता है कि जब तक कि फैसला न हो तुम अनाथालय में रहो, या अपने पिता के पास रहो, या अपने किसी सम्बन्धी के पास रहो, तो उस बेचारी गरीब क्लायेंट को, जिसको अब तक सेशन कोर्ट में रेमेडी प्राप्त थी, हाई कोर्ट जाना पड़ेगा। आप समझ सकते हैं कि किसी गरीब के लिए हाई कोर्ट में जाना, जहां पर कि १०० रु० तो सिर्फ वकील की फीस है, फिर कोर्ट फीस है, कितना मुश्किल है। एक छोटी सी चीज के लिए जिसे सेशन कोर्ट कर सकता है, और जिसके लिए बहुत से हाई कोर्ट्स जैसे लाहौर हाई कोर्ट, नागपुर हाई कोर्ट, बम्बई हाई कोर्ट, मद्रास हाई कोर्ट इन सब का व्यू है कि सेशन कोर्ट को यह हक है कि वह आर्डर के खिलाफ स्टे आर्डर पास कर सके और गरीब मोक्किल को हक है कि वह सेशन कोर्ट से रेमेडी पाए उसके लिए उस गरीब को उत्तर प्रदेशादि स्थानों में हाई कोर्ट जाना पड़ेगा। इलाहाबाद और कलकत्ता हाई कोर्ट्स की रूलिंग की वजह से वह दिक्कत पैदा होती है कि जो चीज सेशन कोर्ट में हो सकती है उसके लिए हम को हाई कोर्ट जाना पड़ता है।

दूसरी मिसाल मैं दूं। धारा १३२ में नुइसेंस के केस होते हैं। नुइसेंस के केस में ज्यादातर क्या होता है? वह केसेज ऐसे होते हैं। जैसे कि मेरा घर है। मेरे पड़ोसी का घर है। मैंने अपने घर में से नाली निकाली। उससे पानी बह रहा है। या कोई नाले का पानी है। उस पानी को मैंने रोक दिया। मेरे पड़ोसी ने अदालत को मूव कर दिया। धारा १३२ के अन्दर जब मैं अदालत के सामने जाता हूं तो अदालत यह आर्डर इश्यू कर देती है कि जो नाली है या परनाली है, जिस से कि पानी जाता है, उसे बन्द कर दिया जाए। अदालत के आर्डर से मेरे मकान की नाली बन्द हो गई। परनाला बन्द हो गया। उसके जरिए जो पानी जाता था वह भी बन्द हो गया। अब मैं क्या कर सकता हूं? जो हमारा पानी जाना बंद हुआ तो उससे मेरे आंगन में पानी भरना शुरू हो गया। पाखाने में पानी भरना शुरू हो गया। ओलती का पानी जाना बन्द हो गया। अब मेरे सामने एक ही चारा रह गया कि मैं हाई कोर्ट जाऊं। अब तक यह होता था कि दफा १३२ के मातहत नुइसेंस के केसेज में चूंकि रिवीजन का राइट है, इसलिए हम सेशन कोर्ट के पास जा सकते थे। कह सकते थे कि जब तक इस मुकदमे का फैसला न हो तब तक जो हमारी नाली का पानी जाता है। ओलती का पानी जाता है। वह चालू रहे, इस में कोई नाजायज चीज नहीं थी।

[श्री रघुनाथ सिंह]

लेकिन हाई कोर्ट की रूलिंग के कारण अब यह बात नहीं हो सकती।

इसके बाद दफा १४५ को देखिए। यह सेक्शन ऐसा है कि शायद बहुत कम आदमी हिंदुस्तान में ऐसे होंगे जो कि इस के दायरे में न आए होंगे। सिविल कोर्ट से कोई रेमेडी न ले कर क्रॉन्दारी के द्वारा किसी चीज की रेमेडी प्राप्त करने का यही एक जरिया है। जैसे एक खेत है। खेत जोतने का समय आ गया। हम जून में खेत जोतते हैं। मान लीजिए कि असाढ़ में धान का बीज बोने का समय आ गया। लेकिन एक आदमी ने दफा १४५ में लोअर कोर्ट में एक इस्तगासा दायर कर दिया। खेत का मालिक वह है। इसको वह जोतता है। लिहाजा उसे जोतने का अधिकार होना चाहिए। लोअर कोर्ट ने आर्डर दे दिया कि जब तक कि मुकदमे का फैसला न हो जाए—खेत अटैच्ड रहे। आप समझ सकते हैं कि अभी तो धान बोने का समय है। पानी बरस रहा है। अगर इस में दस दिन की भी देरी हो जाए तो खेत बिल्कुल बेकार हो सकता है। लेकिन कोर्ट ने तो आर्डर दे दिया कि खेत अटैच हो गया, इसके खिलाफ हम क्या कर सकते हैं? इसके खिलाफ हम जाएंगे हाई कोर्ट। एक बीघा खेत में कुल २० रुपए का तो धान पैदा होगा, और हाई कोर्ट जाने के वास्ते हम को २०० रु० खर्च करना पड़ेगा। साथ में जब तक हम वहां पहुंचेंगे, और वहां से स्टे-आर्डर ले आएंगे तब तक खेत को बोने का समय समाप्त हो जाएगा।

श्री बी० एन० मिश्र (बिलासपुर—दुर्ग—रायपुर): यह आपका कहना कब के लिए है? क्या अमेंडमेंट के बाद भी?

श्री रघुनाथ सिंह: जस्ट टुडे। अभी तो वही ला है। मेरे सामने इलाहाबाद हाई कोर्ट की १९५२ की रूलिंग सेक्शन १४५ के बारे में है। एक केस में लोअर कोर्ट ने किसी प्रापर्टी के अटैचमेंट का आर्डर दिया। उस शख्स ने सेशन्ज कोर्ट को मूव किया कि यह आर्डर गलत है। इसलिए इसको स्टे किया जाए। वहां से यह केस हाई कोर्ट तक गया और इलाहाबाद हाई कोर्ट ने होल्ड किया कि चूंकि इस में "आर्डर" शब्द नहीं है, इसलिए सेशन को अधिकार नहीं है इसको स्टे करें। फल यह हुआ कि सेक्शन १४५, जो कि एक साधारण सा सैक्शन है और जिसका सम्बन्ध हर लिटिगेंट से रोज पड़ता है, के लिए लोगों को हाई कोर्ट तक जाना पड़ेगा। हमारे लायक दोस्त ने अभी कहा है कि सी आर० पी० सी० में एक नई अमेंडमेंट हुई है कि इस बारे में सिविल कोर्ट को रेफर किया जाएगा। लेकिन वह अमेंडमेंट अभी हमारे सामने कानून रूप में नहीं आया है। आज स्थिति यह है कि लोअर कोर्ट्स प्रति दिन आर्डर्स पास करती हैं।

इसी तरह मान लीजिए कि हमने एक डाके का इस्तगासा दायर किया और कहा कि हमारे यहां डाका पड़ा है और उसमें हमारे जेवरात चले गए हैं। पुलिस केस नहीं चलाना चाहती है। मातहत अदालत में इस्तगासा दाखिल होता है। कोर्ट उस कम्प्लेंट को ले लेती है। उस पर विचार करने के बाद उसको खारिज कर देती है। जैसा कि अस्सी परसेंट प्राइवेट कम्प्लेंट्स में होता है। वह आर्डर पास कर देती है कि "एक्यूज्ड डिस्चार्ज्ड। प्रापर्टी शुड बी डिलिवर्ड टु दैम" अर्थात एक्यूज्ड को छोड़ दिया जाए और प्रापर्टी—जेवरात लौटा दिए जाएं। सी आर० पी० सी० में यह भी प्राविजन है कि सेशन्ज कोर्ट में इसके विरुद्ध रिविजन का अधिकार है। लेकिन सेशन्ज कोर्ट को यह अधिकार प्राप्त नहीं है कि रिविजन सुनने तक वह हमारी प्रापर्टी को—हमारे जेवरात को—रोक ले, जो कि डकैत के घर से रिकवर हुए हैं। इसका फल यह होता है कि रिविजन का फैसला जो कुछ भी हो, हमारे जेवरात वापिस चले जाएंगे और डाकू उसे खा जाएंगे। इन बातों को दृष्टि में रखते हुए यह संशोधन बहुत ही आवश्यक है।

एक सैक्शन मैं आपके सामने रखूंगा और वह है सैक्शन १४४। यह एक ऐसा सैक्शन है, जिसका इस्तेमाल बहुत होता है। मिसाल के तौर पर समझ लीजिए कि एक गांव में चार आदमी रहते हैं। उनमें से एक यह एप्लीकेशन

दे देता हैं कि ये लोग रात को मेरे घर में डाका डालना चाहते हैं और मुझ को इनसे जानो-माल का डर है और नुक्से-अमन का खतरा है, लिहाजा इन लोगों के ऊपर कार्यवाही की जाए। इस स्थिति में होगा क्या? जो इस तरह के आर्डर होते हैं, वे एक्स-पार्टी आर्डर होते हैं, इसलिए उन्होंने सेक्शन १४४ के मातहत आर्डर इश्यू कर दिया -- चाहे वह लाफुल हो या अनलाफुल। बाकी तीन आदमी लोअर कोर्ट को मूव करते हैं कि जो आर्डर इश्यू किया गया है, वह रांग है, उस पर विचार किया जाए। लोअर कोर्ट नहीं मानती है। तब वे सेशन्ज कोर्ट में जा सकते हैं---रिविजन कर सकते हैं और रिविजन का फैसला साल भर से पहले नहीं होता है। अगर वह खुदा-न-खास्ता हाई कोर्ट तक पहुंच जाए, तब तो तीन साल से पहले फैसला नहीं होता है। इस प्रकार के न्याय से कोई फायदा नहीं होगा। लिहाजा अगर हम सेशन्ज जज को अपील और रिविजन का राइट देते हैं, तो उनको सेंटेंस के सस्पेंशन के साथ ही साथ आर्डर्ज स्टे करने का भी राइट देना चाहिए। मैं समझता हूं कि हमारे सेशन्ज जज साहबान इतने नालायक नहीं हैं कि वे लोअर कोर्ट्स द्वारा पास किए गए आर्डर्ज के विषय में फैसला न कर सकें। आज सेशन्ज जज हैंग कर सकता है और काले पानी की सजा दे सकता है, लेकिन उसको लोअर कोर्ट्स द्वारा पास किए गए आर्डर्ज को स्टे करने का अधिकार नहीं है। हम समझते हैं कि हमारे हिन्दुस्तान की जुडिशरी बड़ी इम्पार्शियल है और उसने बहुत अच्छा काम किया है और इसके लिए सारे हिन्दुस्तान को गर्व है। मैं आप से अर्ज करना चाहता हूं कि इस संशोधन को अवश्य स्वीकार कर लेना चाहिए।

मैं आपके सामने एक और एग्जाम्पल रखूंगा। आपने देखा होगा कि हमारी पार्लियामेंट में सवाल नम्बर ४२० पूछते समय "चार सौ बीस" का उच्चारण करने में लोग हिचकते हैं। सेक्शन ४०६ से लेकर सेक्शन ४२० तक के सेक्शन्ज एम्बेजलमेंट आफ प्रापर्टी और मिस-एप्रोप्रिएशन आफ प्राप्टी के बारे में हैं। मान लीजिए कि हम ने एक कम्प्लेंट फाइल की कि हमने इतना सोना फलां आदमी को रखने के लिए दिया उसने उसमें अमानत में खयानत की है, लिहाजा वह हमको वापिस दिलाया जाए। या यह समझ लीजिए, सभानेत्री जी, कि आप अपनी सोने की चेन---सोने की संकली---किसी सुनार को ठीक करने के लिए देती हैं और वह सुनार उसे न दे, तो आप क्या करेंगी? करना यह होगा कि सेक्शन ४०६ से लेकर सेक्शन ४२० तक के मातहत कम्प्लेंट फाइल करनी होगी कि सुनार मेरी चेन को वापिस नहीं करता और उसे "खा" जाना चाहता है। आपने कम्प्लेंट फाइल की और आपकी वह सोने की चेन कोर्ट में आ गई। आप समझती हैं और कोर्ट भी समझती है कि वह चेन आपकी ही है, लेकिन केस में कोई लेकुना रह गया और कोर्ट ने फैसला कर दिया "दि केस इज नाट प्रूव्ड। दि एक्यूज्ड इज डिस्चार्ज्ड एंड दि प्रापर्टी बी डिलिवर्ड"। अब आपके पास क्या रेमेडी है। एक्यूज्ड छोड़ दिया गया प्रापर्टी उसको दे दी गई। आपकी सोने की चेन उसके पास चली गई। आपके पास सिर्फ एक ही राइट है कि आप उसके डिस्चार्ज के खिलाफ सेशंस कोर्ट को रिविजन के लिए मूव कर सकते हैं और कह सकते हैं कि यह आदमी जो डिस्चार्ज हुआ है यह रांगफुल डिस्चार्ज है और यह सोने की चेन मेरी है इसलिए इस केस को देखा जाए और इस पर चार्ज लगाकर इसका फैसला किया जाए। लेकिन इसी अर्से में सोने की जो चेन है वह तो उसको लेकर गायब हो गया और सेशंस कोर्ट को चाहे आप के साथ पूरी सहानुभूति है और वह समझती है कि आप ईमानदारी के साथ कोर्ट में आई हैं लेकिन फिर भी वह मजबूर है। एक्यूज्ड साहब तो बैनिफिट आफ डाउट में छूट गए और इसके लिए अगर कोई रेमेडी है तो वह एक ही है कि आप रिविजन फाइल करें और साल के बाद या दो साल के बाद उसकी बारी आए और तब तक आप इंतजार करें।

इन शब्दों के साथ मैं आपसे प्रार्थना करता हूं कि आप कृपा करके इस संशोधन को स्वीकार करें।

Mr. Chairman: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

Shri Tek Chand (Ambala-Simla): It is my pleasure and privilege to rise today under your gracious auspices, Madam. The Bill that my hon. friend has presented is very important and it indicates certain lacunae in the Code of Criminal Procedure which deserve to be remedied at the earliest. It is not a controversial measure in any form. It lays down certain salutary principles whereby the courts of the land are being further and better armed and fortified in order to render effective justice. There is an impression among the lay public that criminal courts' powers are confined to either punishing the guilty or acquitting those who have been falsely accused or falsely charged of having committed a criminal offence. In short, the view that has gained ground is that the exclusive and the only function of the courts of criminal law in this country is to punish the guilty or acquit the innocent.

But, there are certain complementary functions of the criminal courts and unless they are effectually armed with certain powers, powers which are incidental, powers which are necessary, they will not be in a position to exercise them in accord with the dictates of fairplay, in accord with the requirements of justice.

My hon. colleague who has just resumed his seat has given a number of very apt illustrations. He seeks amendment of section 435. Section 435 relates to the criminal jurisdiction of certain courts in this country including the High Court, and courts of the Sessions Judge, the District Magistrate and of the Sub-Divisional Magistrate etc. If a person has been wrongly convicted, the powers that are exercisable by these courts are vast enough whereby relief can be given to the wrongly convicted person. But when it comes to other powers no less important under section 435, the courts appear to be absolutely helpless. There are a number of cases where the criminal courts function, seemingly perhaps, as civil courts but not really so. I will give you a few illustrations that will clarify the point I wish to make out. Whenever there is a criminal case involving stolen property, there are two important considerations for the court. One important consideration is, is the alleged thief a guilty person or is he guilty as receiver of stolen property. The second consideration invoked is is the property found in his possession the property of the complainant. I will perhaps clarify this point with an illustration. Supposing you are possessed of valuable jewellery—I should not have said supposing you are possessed, you have—supposing some theft has taken place or it has been mislaid and that jewellery has been found later in the possession of a person who is strictly not the owner of the jewels, who is, at the same time not a thief and who is not even the receiver of stolen property knowing it to be such, what happens in a court of criminal law. That person is acquitted either by saying that he was not the thief or by saying that somebody, *viz.* the police or others have left it in his trunk, and it is proved to the conviction of the court that the property was not in his possession out of deliberate pilferage nor was he the receiver of stolen property. The man is acquitted and then there is the law whereby a person charged of being a thief or of having stolen property if he is acquitted is ordinarily entitled to be restored to whatever property was found in his possession. The property found in the possession of an innocent person is returnable to him after the conclusion of the case in the court of the Magistrate. Then what happens. He thinks, 'I am not going to go to jail any longer and this property happens to be with me. I will convert it into ingot or gold and I will sell the gold'. You may be the rightful owner of the property, but, in the meanwhile, through the incompetence of law, through the inefficien-

cy of the procedure, a property which is genuinely yours, you cannot lay your hands on.

Let us suppose the Magistrate, rightly or wrongly, directs that that property be handed over to the innocent man from whose possession it had been taken, what happens? you lose your property and he makes a wrongful gain. You run to the Court of Sessions in revision. It may be on two grounds. You say this man is really guilty but he has been wrongly acquitted; let him go behind the bars. The chances of your success are very remote. You have also a right to say, 'he has been acquitted rightly or wrongly, but I am in a position to demonstrate that the property recovered from his possession is really mine'. You have a right to tell the Sessions Judge, 'pray, attach this property and keep it in court's custody; do not hand it over to this man till you have given me a fair opportunity to prove that I am the owner of the property'. And, the Sessions Judge, with all his sympathy, with all his knowledge and understanding, is not in a position to assist you because the moment you show him section 435, all that he can say is. 'I have a right to interfere in the question of sentence but I cannot pass an *ad interim* order regarding the safe custody of this property.'

I am competent to give a judgment whether this man is guilty or this man is innocent, but so far as the use, or removal or conversion of the property is concerned, even if having a feeling that it is yours, I cannot help you in the matter. This Bill which my hon. colleague on my left has presented intends to remove that lacuna which until it is removed can lead to injustice.

Take another instance. Under section 488 it is the function of the criminal court to order a husband who does not maintain his loyal wife by suitable maintenance. It is its function to order a father who does not maintain his children that they should be maintained. It may be that the wife has successfully obtained maintenance and is not really worthy of receiving maintenance because of certain serious lapses, certain infidility on her part. The husband is competent to move the higher court on the ground either that she is not entitled to maintenance or the amount of maintenance is excessive. In the meanwhile, the wife takes out attachment of the property of the husband which goes under the hammer, which is being auctioned. The innocent husband, or the innocent father may run to the court of session and say. "Please reduce the amount of maintenance." He can say that maintenance is not deserved. These pleas may be open. But he cannot tell Session Judge: "Before you are in a position to decide the matter—it may take six months, or a year—my property is about to be sold, my property is under attachment; please stay in the meanwhile the order for the sale, for the auction of that property of mine. If I am not able to make out my contention successfully, by all means go ahead with the attachment, but if I am successful, then this attachment ought not to be there." Yet, this Sessions Court with the best of understanding and sympathy, is absolutely helpless in the matter; cannot give any kind of succour to an innocent party.

Take another instance: under section 133, cases of nuisance. It is usual among litigious people, vindictively inclined towards their neighbours, to lodge all sorts of false, frivolous complaints on the strengths of an accusation that "my neighbour has committed a serious nuisance. He has constructed a wall, he has dug in a trench." Maybe that he has done so on his own land and the court orders: "Very good, this wall is going to be demolished." This building that he

[Shri Tek Chand]

has raised on his land is going to be dismantled. The unsuccessful party in the lower court wants to try its luck in the higher court and he is out to demonstrate that he has not committed a nuisance, or there is no unlawful obstruction. But before he can conclusively establish his contention what happens is that the wall for which he is fighting for is demolished. The Magistrate has ordered demolition of the wall; the court of appeal is yet examining the matter and he wants to tell the court of appeal that pending the decision on his appeal let the *status quo ante bellum* may remain. "Do not in the meanwhile interfere with the present state of affairs; do not in short order demolition of my wall; please order that the order of demolition may remain suspended." The law as it is lays down to the court of appeal: "You may decide the main case, but you cannot pass an *ad interim* order because it is not a sentence of punishment."

Similarly, I can multiply number of cases, but perhaps the best example I can give is of a search warrant. Search warrant is a tactic usually resorted to with a view to humiliate, disgrace, embarrass, somebody, who is in better circumstances, because it carries a certain moral stigma, it carries a certain moral turpitude. Usually the allegations are that Mr. A has at his house an abducted girl or abducted person. The girl may be in the house of the father. I have known, and I am sure my colleagues in the legal profession must have done a number of cases where a disgruntled, cruel, greedy son-in-law after having tormented his wife has driven her to seek shelter with her father and she declines to go back to the husband, because if she did she will be tortured, she will be belaboured, she will be assaulted. The father gives her shelter; the father gives her protection. This greedy, cruel son-in-law has only got to go to the court of a magistrate with an allegation that his wife has been abducted, that she has been removed and is being kept by so and so, without disclosing the fact that so and so happens to be the father. What happens? The mischief is there. A criminal complaint has been lodged and the father appears in a criminal court of law to face an allegation that his child, his flesh and blood, to whom he is giivng protection and succour and it is the duty of this son-in-law of his to help, that he is the keeper of an abducted child of his in his own house. If he were to run post haste to a superior court with a request: "For Heaven's sake don't grant this search order. This child is mine; these are the circumstances", the superior court will say: "Very good, I will examine whether you are guilty or not, later. But if you want that this search warrant should be withdrawn, and I should pass an order with respect to this search warrant, I am absolutely helpless. You may be the father, you may be a very respectable gentleman, holding a very reputable position in society, but I am not in a position to help you because the good of Criminal Procedure has made me helpless."

5 P.M.

Then, take another case. I think the most notorious cases not only because of their frequency, but also of their nuisance value are cases under section 145. Usually, it is a very costly process to establish title in a court of civil law. You have got to pay court fees, you have to engage lawyers, you have to produce evidence and the case is usually prolonged. What happens is....

Mr. Chairman: He may continue on the next day.

The Lok Sabha then adjourned till Eleven of the Clock on Saturday, the 30th April, 1955.